



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

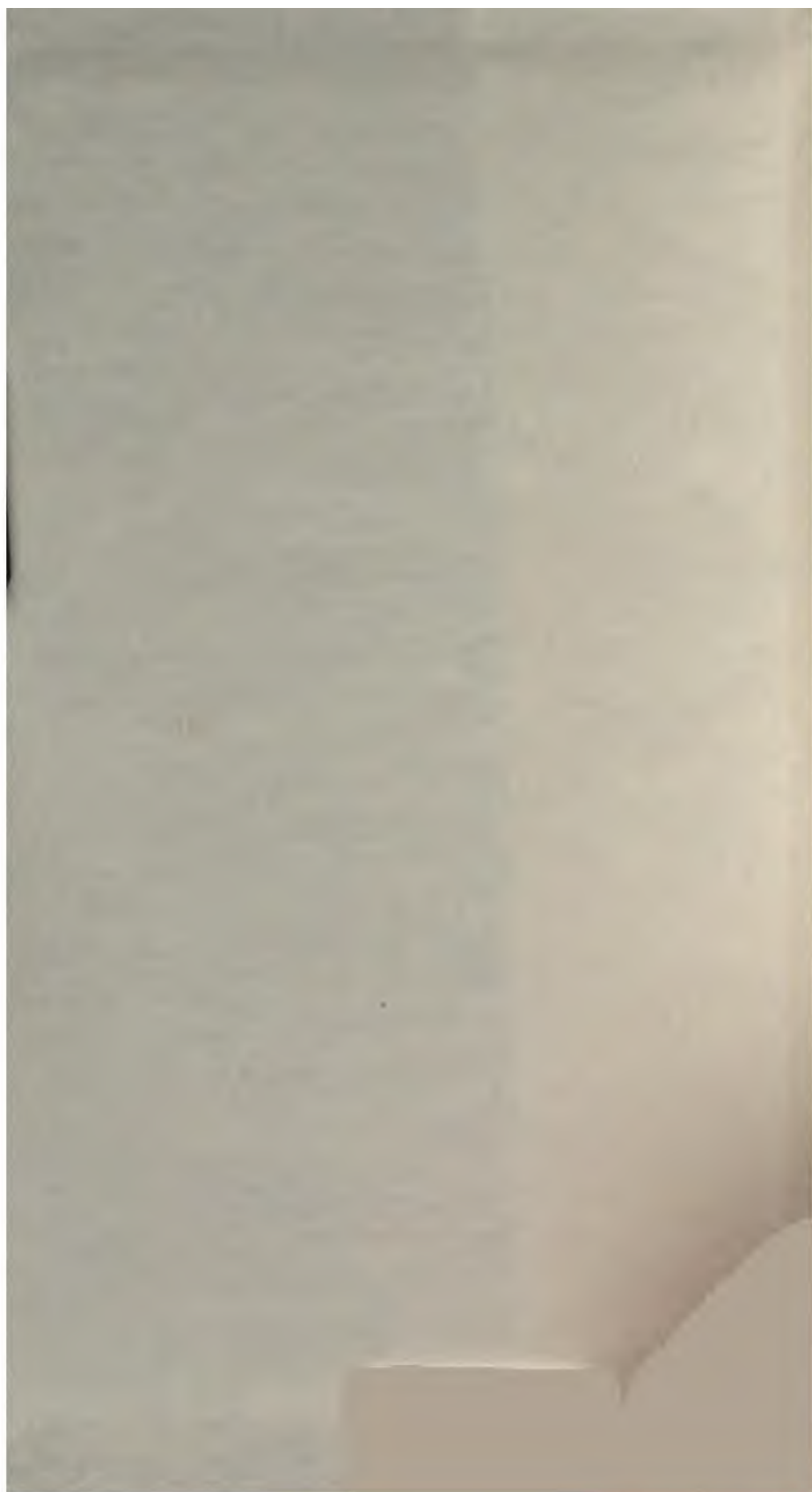
Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

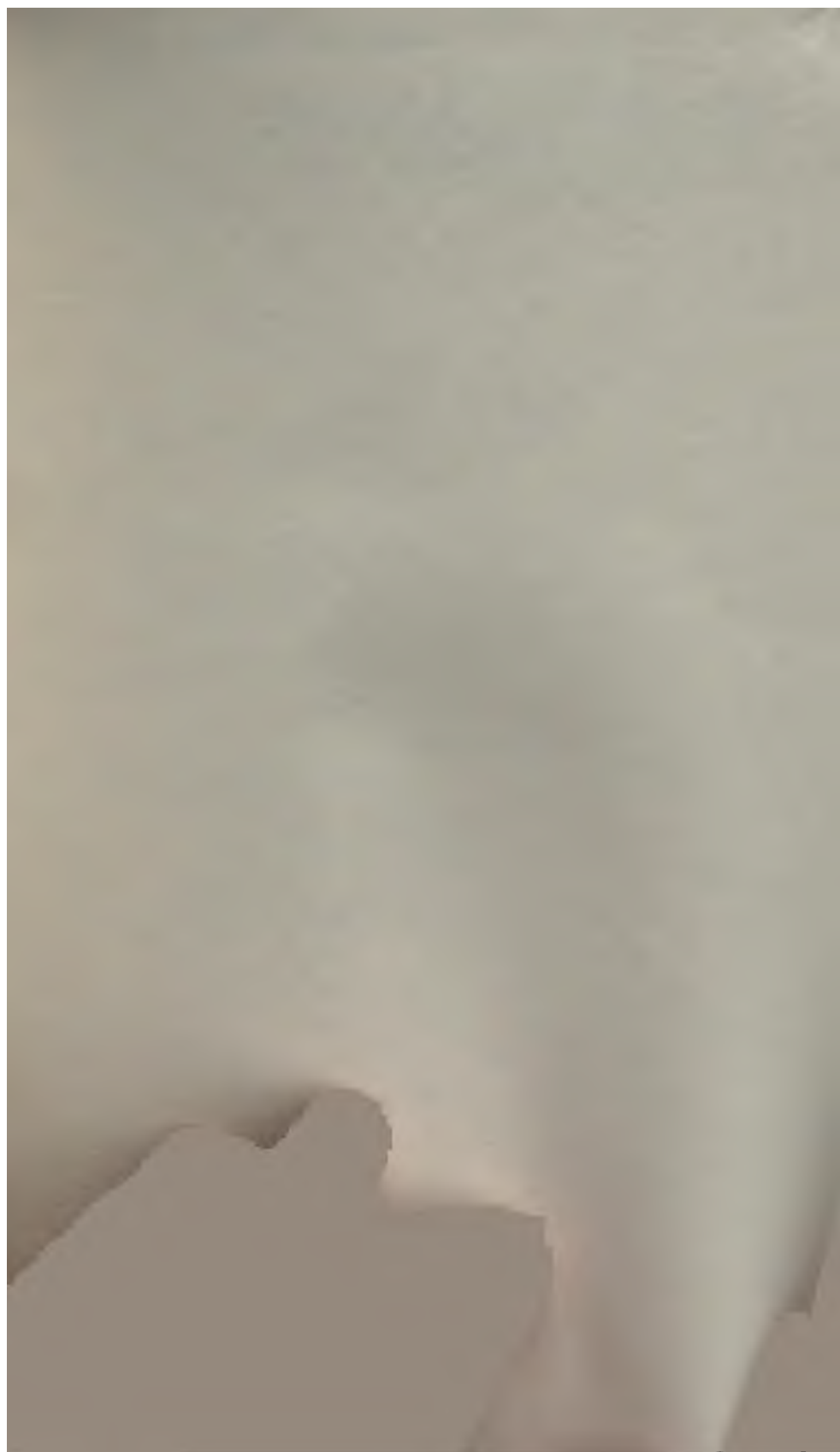
We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>





Y 4. Ag 8/1:102-33

ANCIENT FOREST PROTECTION ACT OF 1991; COMMUNITY STABILITY ACT OF 1991; ANCIENT FOREST ACT OF 1991; AND THE FORESTS AND FAMILIES PROTECTION ACT OF 1991

HEARINGS

BEFORE THE

SUBCOMMITTEE ON FORESTS, FAMILY FARMS,
AND ENERGY

OF THE

COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED SECOND CONGRESS

FIRST SESSION

ON

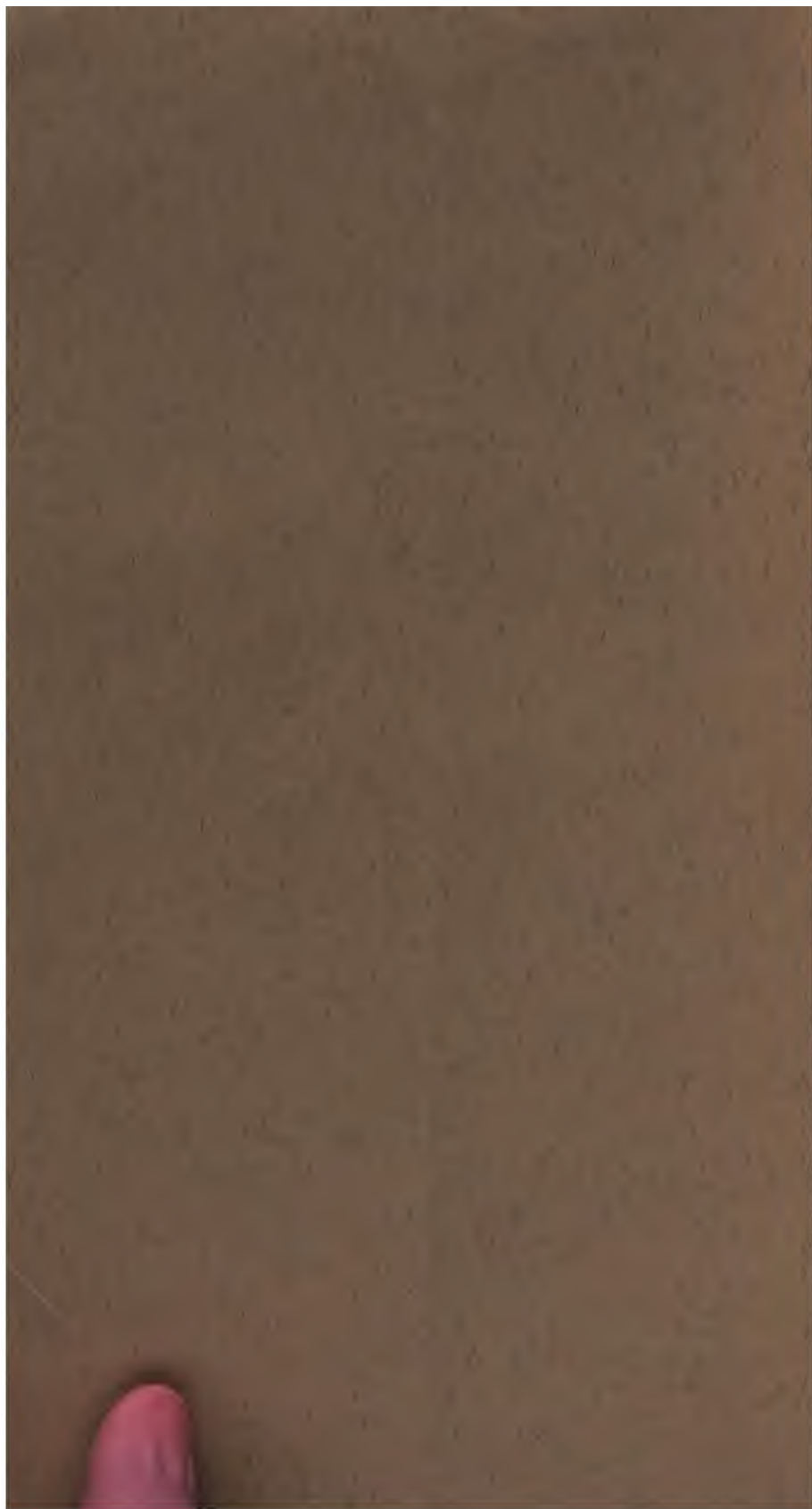
H.R. 842, H.R. 1309, H.R. 1590, AND H.R. 2463

MAY 29 AND 30, 1991

Serial No. 102-33



Printed for the use of the Committee on Agriculture



ANCIENT FOREST PROTECTION ACT OF 1991; COMMUNITY STABILITY ACT OF 1991; ANCIENT FOREST ACT OF 1991; AND THE FORESTS AND FAMILIES PROTECTION ACT OF 1991

HEARINGS
BEFORE THE
SUBCOMMITTEE ON FORESTS, FAMILY FARMS,
AND ENERGY
OF THE
COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES
ONE HUNDRED SECOND CONGRESS
FIRST SESSION
ON
H.R. 842, H.R. 1309, H.R. 1590, AND H.R. 2463

MAY 29 AND 30, 1991

Serial No. 102-33



Printed for the use of the Committee on Agriculture

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1991

46-674

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-035773-X

51 112SU 1723
XL
3/02 31150-200 NALB

COMMITTEE ON AGRICULTURE

E (KIKI) DE LA GARZA, Texas, *Chairman*

WALTER B. JONES, North Carolina,

Vice Chairman

GEORGE E. BROWN, Jr., California

CHARLES ROSE, North Carolina

GLENN ENGLISH, Oklahoma

LEON E. PANETTA, California

JERRY HUCKABY, Louisiana

DAN GLICKMAN, Kansas

CHARLES W. STENHOLM, Texas

HAROLD L. VOLKMER, Missouri

CHARLES HATCHER, Georgia

ROBIN TALLON, South Carolina

HARLEY O. STAGGERS, Jr., West Virginia

JIM OLIN, Virginia

TIMOTHY J. PENNY, Minnesota

RICHARD H. STALLINGS, Idaho

DAVID R. NAGLE, Iowa

JIM JONTZ, Indiana

TIM JOHNSON, South Dakota

BEN NIGHTHORSE CAMPBELL, Colorado

MIKE ESPY, Mississippi

BILL SARPALIUS, Texas

JILL L. LONG, Indiana

GARY CONDIT, California

COLLIN C. PETERSON, Minnesota

CALVIN M. DOOLEY, California

MICHAEL J. KOPETSKI, Oregon

TOM COLEMAN, Missouri,

Ranking Minority Member

RON MARLENEE, Montana

LARRY J. HOPKINS, Kentucky

PAT ROBERTS, Kansas

BILL EMERSON, Missouri

SID MORRISON, Washington

STEVE GUNDERSON, Wisconsin

TOM LEWIS, Florida

ROBERT F. (BOB) SMITH, Oregon

LARRY COMBEST, Texas

WALLY HERGER, California

JAMES T. WALSH, New York

DAVE CAMP, Michigan

WAYNE ALLARD, Colorado

BILL BARRETT, Nebraska

JIM NUSSLE, Iowa

JOHN A. BOEHNER, Ohio

PROFESSIONAL STAFF

DIANNE POWELL, *Staff Director*

VERNIE HUBERT, *Chief Counsel and Legislative Director*

DENNIS E. LAMBERT, *Minority Staff Director*

JAMES A. DAVIS, *Press Secretary*

SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENERGY

HAROLD L. VOLKMER, Missouri, *Chairman*

JIM OLIN, Virginia,

Vice Chairman

RICHARD H. STALLINGS, Idaho

JIM JONTZ, Indiana

LEON E. PANETTA, California

JERRY HUCKABY, Louisiana

GEORGE E. BROWN, Jr., California

MICHAEL J. KOPETSKI, Oregon

SID MORRISON, Washington

RON MARLENEE, Montana

BILL EMERSON, Missouri

ROBERT F. (BOB) SMITH, Oregon

WALLY HERGER, California

CONTENTS

MAY 29, 1991

	Page
H.R. 842, a bill to provide for the protection of the remaining ancient forests on the Federal lands of the States of Washington, Oregon, and California, and for other purposes	483
H.R. 1309, a bill to assure stability of communities dependent on outputs of timber and other resources from national forests and public lands, and for other purposes	501
H.R. 1590, a bill to provide for designation by the Secretary of the Interior and the Secretary of Agriculture of an ancient forest reserve system, including lands managed by the Bureau of Land Management and portions of national forests established by reservations from the public domain; to require the Secretary of the Interior and the Secretary of Agriculture to enhance economic stability in the Pacific Northwest; and for other purposes	507
H.R. 2463, a bill to provide for the protection and management of ecologically-significant old growth forest on certain national forest lands and public domain lands in the States of Washington, Oregon, and California; to ensure the conservation of the Northern Spotted Owl and protection of other species associated with old growth forest on such lands; to provide economic adjustment grants and benefit payments to communities and workers economically dependent on such lands; to facilitate the implementation of land management plans for such lands and Federal lands elsewhere; to ensure a stable and predictable supply of commodity resources from, and the stability of communities dependent on, Federal lands; and for other purposes	542
Brown, Hon. George E., Jr., a Representative in Congress from the State of California, prepared statement	9
Emerson, Hon. Bill, a Representative in Congress from the State of Missouri, prepared statement	5
Harger, Hon. Wally, a Representative in Congress from the State of California, opening statement	7
Jontz, Hon. Jim, a Representative in Congress from the State of Indiana, opening statement	8
Memorandum decision and injunction, No. C89-160WD, findings 35 and 36, Judge Dwyer's decision	187
Kopetaki, Hon. Michael J., a Representative in Congress from the State of Oregon, opening statement	56
Prepared statement	57
Morrison, Hon. Sid, a Representative in Congress from the State of Washington, opening statement	2
Panetta, Hon. Leon E., a Representative in Congress from the State of California, prepared statement	15
Smith, Hon. Robert F. (Bob), a Representative in Congress from the State of Oregon, opening statement	52
Prepared statement	54
Stallings, Hon. Richard H., a Representative in Congress from the State of Idaho, prepared statement	46
Volkmer, Hon. Harold L., a Representative in Congress from the State of Missouri, opening statement	1

IV

WITNESSES

Beuter, John H., Deputy Assistant Secretary, U.S. Department of Agriculture.....	Page 73
Prepared statement	339
DeFazio, Hon. Peter A., a Representative in Congress from the State of Oregon.....	50
Jamison, Cy, Director, Bureau of Land Management, U.S. Department of the Interior.....	77
Prepared statement	359
Johnson, K. Norman, associate professor, forest management, college of forestry, Oregon State University.....	258
Prepared statement	430
McDermott, Hon. Jim, a Representative in Congress from the State of Washington.....	62
Prepared statement	337
Nafziger, Richard, special assistant to the Governor, on behalf of Governor Booth Gardner, State of Washington	302
Prepared statement	443
Nesbit, Roger W., Attorney Adviser, Office of the Solicitor, Pacific Northwest Regional Office, U.S. Department of the Interior.....	230
Partridge, Craig, director, office of policy research and development, department of natural resources, on behalf of Brian Boyle, commissioner, public lands, State of Washington	306
Prepared statement	459
Letter of June 10, 1991.....	312
Riggs, Hon. Frank D., a Representative in Congress from the State of California	59
Prepared statement	333
Rutzick, Mark C., attorney, Preston, Thorgrimson, Shidler, Gates & Ellis, on behalf of the Northwest Forest Resource Council	228
Prepared statement	416
Sher, Victor, attorney, Sierra Club Legal Defense Fund	225
Prepared statement	387
Sproul, Christine, assistant secretary, resources agency, State of California	297
Prepared statement	432
Swift, Hon. Al, a Representative in Congress from the State of Washington.....	20
Revitalizing the Timber Dependent Regions of Washington, report.....	22
Turner, John F., Director, Fish and Wildlife Service, U.S. Department of the Interior.....	75
Prepared statement	355
Unsoeld, Hon. Jolene, a Representative in Congress from the State of Washington.....	51
Prepared statement	332
Vento, Hon. Bruce F., a Representative in Congress from the State of Minnesota.....	17
Prepared statement	327

SUBMITTED MATERIAL

Banzhaf, William H., executive vice president, Society of American Foresters, letter of May 28, 1991.....	462
Chandler, Hon. Rod, a Representative in Congress from the State of Washington, statement.....	471
Doolittle, Hon. John T., a Representative in Congress from the State of California, statement.....	474
Roberts, Barbara, Governor, State of Oregon, letter of May 28, 1991	476
Sikorski, Hon. Gerry, a Representative in Congress from the State of Minnesota, statement.....	480

MAY 30, 1991

Jontz, Hon. Jim, a Representative in Congress from the State of Indiana, opening statement.....	612
Open letter from members of the scientific community.....	614
Kopetski, Hon. Michael J., a Representative in Congress from the State of Oregon, opening statement	616

V

	Page
Stallings, Hon. Richard H., a Representative in Congress from the State of Idaho, opening statement	616
Volkmer, Hon. Harold L., a Representative in Congress from the State of Missouri, opening statement.....	611

WITNESSES

Dick, Louie H., Jr., vice chairman, board of trustees, confederated tribes, Umatilla Indian Reservation, Pendleton, OR.....	622
Prepared statement	766
Evans, Brock, vice president, national issues, National Audubon Society, and also on behalf of the Ancient Forest Alliance	618
Prepared statement	755
Geisinger, James, president, Northwest Forestry Association.....	682
Prepared statement	820
Kuehne, M.J. "Gus," president, Northwest Independent Forest Manufacturers.....	717
Prepared statement	871
Lloyd, Murray, member, Sierra Club.....	624
Prepared statement	769
Olson, Jeffrey T., director and resource economist, Arnold Bolle Center for Sustainable Forestry, Wilderness Society	735
Prepared statement	944
Orem, Betty, trustee, Harold M. and Betty F. Orem Trust.....	720
Prepared statement	904
Osborne, Cheryl on behalf of the Oregon Lands Coalition	730
Prepared statement	911
Pawlicki, Mark, director, corporate and public affairs, Sequoia Forest Industries.....	685
Prepared statement	848
Power, Jay, legislative representative, American Federation of Labor and Congress of Industrial Organizations	652
Prepared statement	773
Rabern, Ted, business representative and financial secretary, local 2949, Western Council of Industrial Workers, United Brotherhood of Carpenters and Joiners of America.....	656
Prepared statement	789
Rey, Mark, executive director, American Forest Resource Alliance	679
Prepared statement	797
Rust, Jerry, commissioner, Lane County, Eugene, OR.....	732
Submitted documents	934
Scott, Denny, staff economist, United Brotherhood of Carpenters and Joiners of America	653
Prepared statement	776
Spence, Robert L., president, Pacific Lumber and Shipping Co	714
Prepared statement	860

SUBMITTED MATERIAL

Eaton, Pamela Pride, assistant program director, national wildlife refuges, Wilderness Society, letter of May 29, 1991.....	949
Statistical Review of 1990 Status Review, Northern Spotted Owl, Steven L. Sheriff, wildlife biostatistician, Columbia, MO, technical bulletin No. 91-08..	951

OLD-GROWTH FOREST MANAGEMENT

WEDNESDAY, MAY 29, 1991

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENERGY,
COMMITTEE ON AGRICULTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:05 a.m., in room 1300, Longworth House Office Building, Hon. Harold L. Volkmer (chairman of the subcommittee) presiding.

Present: Representatives Olin, Stallings, Jontz, Huckaby, Kopetski, Morrison, Emerson, Smith, and Herger.

Also present: Representative Dooley, member of the committee, and Representatives De Fazio and Unsoeld.

Staff present: Andy Baker, assistant counsel; Alice Devine, minority associate counsel; Glenda L. Temple, clerk; Timothy P. De Coster, Dan McGrath, James R. Lyons, and James A. Davis.

OPENING STATEMENT OF HON. HAROLD L. VOLKMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. VOLKMER. The Subcommittee on Forests, Family Farms, and Energy is meeting today to review legislation relating to management of old-growth forests. This meeting is a continuation of efforts begun in the last Congress to resolve the controversy associated with this matter, particularly in the Pacific Northwest.

The issues are extraordinarily difficult, but it is my feeling that Congress must come to grips with them—and soon—or we will see our national forests managed by Federal courts rather than professional foresters. There are important concerns on all sides of this debate. The fate of a tremendous natural resource and the lives of thousands of our citizens in the Northwest hang in the balance, and it is imperative that we address the controversy to bring an end to the frustration, confusion, and uncertainty that now exists.

Most reasonable people would agree, I believe, that we need to seek balance in the management of the forest resources. Finding the balance between protection and utilization has never been easy, and in this situation the job has proven to be nearly impossible. But we must pursue this intense national debate and arrive at a decision that represents a workable policy that protects the resources while maintaining the long-term economic viability of the region.

Our focus in these hearings will be on the particular problems of the Pacific Northwest. There are certainly issues that will be discussed that are common throughout the country, and there are provisions in some of the bills we are reviewing that would apply to

Y 4. Ag 8/1:102-33

ANCIENT FOREST PROTECTION ACT OF 1991; COMMUNITY STABILITY ACT OF 1991; ANCIENT FOREST ACT OF 1991; AND THE FORESTS AND FAMILIES PROTECTION ACT OF 1991

HEARINGS

BEFORE THE

SUBCOMMITTEE ON FORESTS, FAMILY FARMS,
AND ENERGY

OF THE

COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED SECOND CONGRESS

FIRST SESSION

ON

H.R. 842, H.R. 1309, H.R. 1590, AND H.R. 2463

MAY 29 AND 30, 1991

Serial No. 102-33



Printed for the use of the Committee on Agriculture

forests around the Nation. It is my intention to concentrate these hearings on the Pacific Northwest, and to schedule hearings later on the more national issues such as forest plan implementation. After discussions with other members, I find that most are of the opinion that we will have enough trouble trying to resolve the Pacific Northwest issues without throwing national issues into the mix, at least for the time being.

We have a lengthy witness list today and tomorrow, representing a broad variety of viewpoints and fields of expertise. I welcome all of our witnesses and thank you for your participation.

At this time, I would like to yield to the gentleman from Washington.

OPENING STATEMENT OF HON. SID MORRISON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. MORRISON. Thank you, Mr. Chairman. I want to start by extending a special thanks to you. You have attempted to step into the middle of a most interesting and complex problem that we face in the Pacific Northwest, and to help us find some answers. That is greatly appreciated. Today's hearing is a classic example of that dedication.

I would also like to thank Mr. Vento because he has probably presented us with the best combination of factors so far within which we may be able to fashion some sort of a compromise that could help.

I find the forests in the Pacific Northwest caught in an interesting squeeze play between fundamentally three congressional actions: The Endangered Species Act; the National Environmental Policy Act; the National Forest Management Act; and some modifications of that triangle for the folks in the Bureau of Land Management. The result of this ends up with a field day in court, as we have seen. Mr. Chairman, you indicated that our forests are being managed by judges somewhere in the West.

I find myself in a unique position. I have been sentenced to be convener of the Washington State efforts in this whole issue area, so I, too, am searching diligently for an answer. Hearings as we are holding today and tomorrow help in doing this.

One thing that has come out of this are some very good ideas. For instance, longer rotation in the forests is one that will be presented; the concepts of new forestry so that we avoid the clear cuts and so that we manage that forest system for something besides the harvest; and other ideas have come forth. I just hope that we can get there from here, as we have in front of us the barriers of existing legislation.

I would also like to compliment labor and industry. We have under the Taft-Hartley Act a unique law created. You usually have conflict between labor and management in the timber industry, and they have used a mechanism under that law to get together and have a package that has been introduced by a number of members from the Pacific Northwest. I compliment them for getting that side of the issue on the table as well.

Again, Mr. Chairman, I thank you. I look forward to the array of witnesses that we have in front of us.

Mr. VOLKMER. Thank you.
The gentleman from Indiana.

**OPENING STATEMENT OF HON. JIM JONTZ, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF INDIANA**

Mr. JONTZ. Thank you, Mr. Chairman. I want to express my appreciation to you and the ranking minority member of our committee, Mr. Morrison, for your attention to this issue and for the hearing on the legislation we have before us today, including H.R. 842 that I have sponsored. We have an excellent list of witnesses to hear from this morning, including several of our colleagues that have put a great deal of time and effort into this issue.

I think it's important for us to reflect, as we take on the task of reviewing our Nation's policies, as they affect our forests in the Pacific Northwest, what has brought us to the crisis situation that we face today. Some will argue that we are in this crisis because citizens have the right to go to court to ensure that the laws passed by this Congress requiring some balance in the management of our public lands are enforced. In the minds of some, the problem is that citizens in this country have too much power, that the laws go too far in protecting the environment, and that we have seen too much attention to environmental values.

I really don't think that is the cause of the problem we face today. I think the cause of the crisis that we see today in the Pacific Northwest is that we have ignored science. We have turned our back on the opinions of those that have studied how forests function as ecological systems. And we have pretended as if the information that they have to relate to us about how the natural world functions is of no importance.

We have allowed political interference to overweigh the good judgment of professionals in our agencies. We have sought to extract more from the resource than what it can bear. We have put short-term economic gains above the long-term sustenance of the resource. And we have responded regrettably here in the Congress by putting Band-Aids on the problem instead of getting at the root cause of it.

I think a lot of the situation is summarized in the decision of Judge Dwyer that was handed down just this last week. I know there will be witnesses speaking to this today.

Judge Dwyer says that to bypass the environmental laws, either briefly or permanently, would not fend off the change as transforming the timber industry. The argument that the mightiest economy on Earth cannot afford to preserve old-growth forests for a short time while reaching an overdue decision on how to manage them is not convincing today, and would be even less so in a year or a century from now.

My hope is that this committee will be able to separate out from the various views that we will hear today what are the real causes of the crisis that we face and what are the true reasons that we have the economic and environmental problems that we have in the Pacific Northwest and respond in a way that is in the best interest of the Nation and the residents of that area as well—properly sustaining the forests so that they can continue to provide bene-

fits to us, both economic and otherwise, for many centuries to come.

Again, I thank you, Mr. Chairman, and all the members of the subcommittee for their attention to this very important issue today.

Mr. VOLKMER. Thank you.

The gentleman from Missouri.

Mr. EMERSON. Thank you, Mr. Chairman.

I have no opening statement. I would simply associate myself with your remarks and the remarks of my other colleagues here today and ask that my prepared statement be made a part of the record.

Mr. VOLKMER. Without objection, your prepared statement will appear in the record.

[The prepared statement of Mr. Emerson follows:]

BILL EMERSON
MEMBER OF CONGRESS
7TH DISTRICT, MISSOURI

HOUSE COMMITTEE ON
AGRICULTURE

HOUSE COMMITTEE ON
PUBLIC WORKS AND TRANSPORTATION

SELECT COMMITTEE ON HUNGER

Congress of the United States
House of Representatives
Washington, DC 20515

STATEMENT OF CONGRESSMAN BILL EMERSON
BEFORE THE FORESTRY, FAMILY FARMS, AND ENERGY SUBCOMMITTEE
REVIEW OF OLD GROWTH FORESTS ISSUES
MAY 29, 1991

OFFICE
SUITE 400
CANNON BUILDING
WASHINGTON, DC 20510
202/225-4404

THE FEDERAL BUILDING
535 BROADWAY
CAPE GIRARD, MO 65701
314/255-0101

612 FIVE
ROLLA, MO 65401
314/364-3405

Mr. Chairman, I would like to first of all thank you and the Committee's Ranking Member, Mr. Morrison, for holding this important hearing to review legislation relating to old growth forests. As most of us know, this has become a very sensitive and emotional issue for not only the Pacific Northwest but for much of the nation. Old growth, timber harvesting, and the Spotted Owl all play a role in the management of our national forest resources in the Northwest region of this country. Our commitment must be to develop both common sense and practical solutions to the problems facing this forestry region. We are also aware of the economic devastation facing the men and women of this region as greater and greater restrictions are imposed on the use of renewable timber resources.

Indeed, this is a very emotional issue, but one ^{in which the answers} must be based on a thorough knowledge of the situation, the alternatives, good forest management practices, and the needs of and the impact on our country. While old growth forests have an important place in our environment, a solid majority of professional foresters are in agreement that forests generally do a lot better when they are harvested and replanted. Moreover, the U.S. Forest Service has more than 6 million acres of old-growth forests that will never be harvested, due to federal wilderness and other management restrictions. Certainly, there is a balance between preservation and reforestation that must be attained.

Furthermore, a great many jobs in the Northwest -- as many as 28,000 jobs -- are dependent on this industry and the timber harvested from the

forests. To suddenly pull the rug out from under the thousands of families who depend on this income to put bread on their table would not be wise. I do agree that we must make revisions and improvements in our timber policies, but we must do so vigily. Forcing these folks onto the unemployment and welfare programs will only cause further, more complicated problems.

Today, this Committee is taking the all-important first step in responding to the needs of so many domestic agricultural producers adversely affected by this growing season's natural shortcomings. Many rural towns and communities depend upon the timber industry for their economic survival. This committee is well aware that a disastrous situation for the local timber industry spells equally dismal ^{consequences} for local communities. I look forward to working with my colleagues to effectively address this severe problem facing the forestry men and women of the Pacific Northwest.

Mr. EMERSON. Thank you, Mr. Chairman.
 Mr. VOLKMER. The gentleman from California.

OPENING STATEMENT OF HON. WALLY HERGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HERGER. Thank you, Mr. Chairman.

I want to commend you for holding this hearing to review legislative proposals which seek to address the crisis situation that has developed in northern California and the Pacific Northwest. In my view, this crisis has unfolded in recent months due to the total lack of balance between the need to protect the northern spotted owl and provide badly needed economic stability for our timber-dependent communities.

I wholeheartedly agree with President Bush and Secretary of the Interior Lujan, both of whom have said that we need to find a balance between protecting the spotted owl and meeting the basic economic needs of our small, rural communities in northern California and the Pacific Northwest. Unfortunately, we have not seen any serious effort to achieve this balance on this particular issue.

In northern California, harvest levels on the four national forests that contain northern spotted owl habitat have been reduced from an average of over 631 million board feet in the years 1980 to 1989 down to a projected level of 265 million board feet, at most, in 1991. This drastic reduction of well over 50 percent in harvest levels will result in thousands of jobs lost in the very near future. Thus, the current situation does not in any way reflect a balance between environmental and economic considerations.

It is important to note that many of our expert scientists have acknowledged that we can manage our forests for both timber production and protection of the spotted owl and its habitat. This is true especially in northern California, where climatic conditions produce rapid regeneration of the forests. Moreover, the most recent scientific studies have confirmed that there are hundreds more spotted owls in northern California than was originally thought. For example, the most recent surveys have confirmed 350 pairs of owls on private lands in northern California, whereas the ISC report estimated only about 100 pairs.

As such, I firmly believe that we can strike a balance that will protect our timber-dependent communities from drastic reductions in timber supply as well as manage for the conservation of the spotted owl, its habit, and ancient forests.

Mr. Chairman, I am an original cosponsor of both H.R. 1309 and H.R. 2436, both of which would enable us to achieve the balance which the people of our rural communities so badly need. On the other hand, I fear that either H.R. 1590 or H.R. 842 would result in even greater economic instability in this region than we are now experiencing. We need to examine these bills today with an eye toward achieving the balance that has alluded us so far.

I look forward to hearing the testimony of all of our witnesses today, and again I thank the chairman for holding this important hearing.

Mr. VOLKMER. I also want to welcome Congressman Dooley, who is a member of the full committee, but not of the subcommittee. I know he has a strong interest in the subject matter.

Also, any prepared statements from the members will be placed at this point in the record. Thank you.

[The prepared statements of Mr. Brown and Mr. Panetta follow; the bills, H.R. 842, H.R. 1309, H.R. 1590, and H.R. 2463, appear at the conclusion of the hearing.]

GEORGE E. BROWN, JR.
5105 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 555-6101

CHAIRMAN
COMMITTEE ON
SCIENCE, SPACE, AND TECHNOLOGY
AGRICULTURE
TECHNOLOGY ASSESSMENT BOARD

Congress of the United States
House of Representatives
Washington, DC 20515

36TH DISTRICT OF
CALIFORNIA

- ☐ DISTRICT OFFICE
 957 LACOMA DRIVE
 COLTON, CA 92324
 (714) 825-2473
☐ 3000 LANE STREET, SUITE 110
 RIVERSIDE, CA 92501
 (714) 955-5055
☐ WASHINGTON OFFICE

STATEMENT SUPPORTING
THE INCLUSION OF THE SIERRA NEVADA RANGE IN
ANCIENT FORESTS LEGISLATION
PRESENTED TO THE SUBCOMMITTEE ON
FORESTS, FAMILY FARMS, AND ENERGY
BY
GEORGE E. BROWN, JR.
MEMBER OF CONGRESS

Chairman Volkmer, members of the Subcommittee on Forests, Family Farms, and Energy, I appreciate the opportunity to deliver a statement with regard to the ancient forests legislation before the subcommittee today. I would first like to thank the Chairman for scheduling these hearings so that Congress can move forward and reach an equitable solution to a troublesome issue. The task before us will not be easy, but I am optimistic that the

committees of Congress will be able to craft a comprehensive piece of legislation that provides permanent protection to the nation's ancient forests while addressing the significant impact such protection will have on those parties that depend on those forests for their livelihood.

The ancient forests legislation I envision will protect the whole range of ancient forest ecosystems within the Pacific Northwest and California. By excluding any significant area of ancient forests we will be abdicating our responsibility to serve as stewards for one of our nation's most precious natural resources. Although these areas are not the habitat of the northern spotted owl, ancient forests located within the federal forests in eastern Washington and Oregon and the Sierra Nevada Range of California deserve permanent protection. These areas represent some of the few areas in the United States other than coastal forests of the West Coast where large, intact blocks of ancient forest remain. Excessive logging in these areas imperils not only the trees, but the wildlife and the entire ecosystems as well.

It is vital that any interim protection of forest areas be provided for ecologically significant tracts of ancient forest, and not solely for habitat conservation areas (HCA's). The HCA's that have been designed by the Interagency Scientific Committee (ISC) provide protection for the northern spotted owl but do not provide protection for the ancient forest ecosystem. Legislation that we craft must provide this ecosystem protection.

I further believe that we should not be striving to provide simply an interim solution to this matter. We should be striving to produce comprehensive and permanent protection for this nation's ancient forests. The areas that need protection have been well documented. There is no reason to wait further to provide permanent protection. The studies already completed show that there is a very significant need to protect this critical habitat. Additional studies may only result in a smaller area needing protection, because delays may allow additional logging to take place in these ancient forests.

Of equal importance to the inclusion of the Sierra Nevada Range is the necessity to adequately address the needs of the timber industry employees who may be displaced by any ancient forests legislation. This Congress must not abandon the men and women whose livelihoods are dependent upon the logging industry. It is my hope that any ancient forests legislation contain strong and appropriate worker dislocation benefits and provide for retraining assistance for those impacted.

In conclusion, I again wish to thank the Chairman and the members of the entire Agriculture Committee for their attention and devotion to this matter. I look forward to working with you on this matter and look forward to producing a comprehensive bill that includes the Sierra Nevada Range and sufficient benefits for those persons who may be adversely affected.

(Attachment follows:)

Congress of the United States
Washington, DC 20515

May 29, 1991

The Honorable Bruce Vento
Chairman
Subcommittee on National Parks and Public Lands
House Interior and Insular Affairs Committee
H1-A812 O'Neill HOB
Washington, D.C. 20515-6207

Dear Chairman Vento:

We write to urge that in any ancient forest protection legislation considered by your subcommittee in the upcoming months, you include protection for the ancient forests of California's Sierra Nevada Range.

The Sierra Nevada Range in eastern California represents one of the few areas in the United States other than the coastal forests of the West Coast where large, intact blocks of ancient forest remain. While the Sierra forests differ from those of the wetter coastal range and Cascades, they similarly include magnificent centuries-old trees and a complex ecosystem filled with wildlife species dependent on the ancient forest. Many now consider these ancient forests of the eastside even more threatened than those within the Cascades and coast ranges. Like its counterpart in eastern Oregon and Washington the eleven national forests within the Sierra Nevada Range retain important ecosystems dominated by awe-inspiring red and white fir, ponderosa and jeffery pine, incense cedar, and sugar pine. In addition, the majority of giant Sequoias--some of them nearly three thousand years old--lie outside of national parks or wilderness areas and are statutorily unprotected from logging.

Scores of species find optimal habitat in this multi-layered world of many tree types and sizes, decaying woody material on the forest floor, and dead standing trees, or "snags," that provide nesting and foraging habitat. The elusive pine marten, wolverine, and fisher are three mammals which require such habitat; biologists fear all three are headed for extinction. The Sierran spotted owl, a distinct subspecies from the more famous northern spotted owl, also prefers ancient forests of this region for nesting, raising young, and finding food. Other sensitive old growth-preferring species include the white-headed woodpecker, goshawk, willow flycatcher, and many amphibian species.

Chairman Vento
Page Two

Excessive logging in the Sierra Nevada Range imperils not only the trees, but the wildlife and the entire ecosystems as well. In recent years, increased timber cutting has accelerated the fragmentation of ancient forest areas and degraded the habitat. Without protection, all remaining ancient forests of the Sierra Nevada that lie outside wilderness or national parks will be gone within ten to twenty-five years.

We urgently request that you include protection for these magnificent and imperiled forests in legislation this year. These forests represent a heritage that should be passed on to future generations of all Americans to enjoy and cherish.

Thank you very much for your consideration of this matter of utmost importance to us and our constituents.

Sincerely,

George E. Brown, Jr. Tom Campbell
George E. Brown, Jr., M.C. Tom Campbell, M.C.

Howard L. Berman Leon E. Panetta
Howard L. Berman, M.C. Leon E. Panetta, M.C.

Don Edwards Pete Stark
Don Edwards, M.C. Fortney Pete Stark, M.C.

Barbara Boxer Robert T. Matsui
Barbara Boxer, M.C. Robert T. Matsui, M.C.

Ronald V. Dellums Mervyn M. Dymally
Ronald V. Dellums, M.C. Mervyn M. Dymally, M.C.

Tom Lantos Anthony C. Beilenson
Tom Lantos, M.C. Anthony C. Beilenson, M.C.

Estaban Edwards Torres Edward R. Roybal
Estaban Edwards Torres, M.C. Edward R. Roybal, M.C.

Norman Y. Mineta Julian C. Dixon
Norman Y. Mineta, M.C. Julian C. Dixon, M.C.

Chairman Vento
Page Three

Matthew G. Martinez
Matthew G. Martinez, M.C.

Nancy Pelosi
Nancy Pelosi, M.C.

Henry A. Waxman
Henry A. Waxman, M.C.

cc: California Delegation
Committee on Interior and Insular Affairs

**OPENING STATEMENT OF THE HONORABLE LEON E. PANETTA
BEFORE THE SUBCOMMITTEE ON FORESTS, FAMILY FARMS AND ENERGY
ON LEGISLATION RELATING TO OLD-GROWTH FOREST MANAGEMENT**

May 29, 1991

Thank you, Mr. Chairman, for convening these hearings on the critical issue of old growth forest legislation. This is an issue of grave importance to both the citizens of the Pacific Northwest and to the survival of our threatened ancient forest ecosystems. I believe this issue warrants a deliberate and thorough investigation by the Congress and as such, am pleased by this Committee's scheduling of these hearings.

Today we will be hearing from Members with competing legislative proposals and I look forward to hearing their views and concerns. Based on what we learn during this hearing process, I would hope that this Committee will craft a proposal which will take real action towards preserving our dwindling old-growth forest ecosystems. In doing so, I want to emphasize to my colleagues how important it is that any old-growth legislation reported by this Committee establish a scientifically credible process, similar to that found in H.R. 842, the Ancient Forest Protection Act, for protecting old-growth forests reserves. I am a sponsor of H.R. 842. I support this bill because I fear that unless a scientific based approach to protection of the old-growth forests is taken, we will fail in our attempts to offer true protection to this precious resource.

Also I feel that it is essential that old-growth forest legislation preserve the old-growth forest ecosystem in its entirety and not further piecemeal protection for only the spotted owl habitat. The threatened owl is but a symptom of the larger problem which is our disappearing old-growth forest ecosystem.

I would also like to state for the record, Mr. Chairman, that I support the inclusion of protection for the old-growth forests of California's Sierra Nevada Range in old-growth forest legislation. These old-growth forests on the eastside of California are considered by many to be even more threatened than those within the coast ranges and I feel that it is critical that this area not be ignored by old-growth legislation considered in the Congress.

Lastly, from the onset of this debate I want to make clear my grave concerns with proposals to weaken existing environmental laws and regulations such as the Endangered Species Act and the National Forest Management Act as a means of resolving this issue. To the contrary, I feel the U.S. Forest Service and the Bureau of Land Management should be coming into accordance with, and offering strong implementation of these laws.

As I indicated earlier, I think this hearing offers the Committee Members a good opportunity to hear the concerns of all parties with a

The U.S. Supreme Court has ruled that the federal government can sue a state to force it to comply with federal law. The ruling is a landmark decision that could have far-reaching consequences for the federal government's ability to enforce its laws.



Mr. VOLKMER. Our first witness today—and I think it's very appropriate that he be the start-off witness—is the chairman of the Subcommittee on National Forests and Public Lands of the Interior Committee, and has worked himself very strongly and energetically on this very same issue in his subcommittee and in his full committee. He has entered the quagmire himself by introducing legislation, H.R. 1590, which today is being heard along with Mr. Jontz' bill, and also H.R. 1309 by Mr. Smith of Oregon, and H.R. 2463 by Mr. Huckaby and others. I think that our first witness is to be commended for the attempts he has made in order to bring about a solution to the problem. I would commend him for that and look forward to his statement.

Your statement will be made a part of the record. You may either review it in full or summarize it, however you so desire. Because of your willingness to enter the foray and get it from both sides for doing what you thought was right, I think you're appropriate to be the first witness.

STATEMENT OF HON. BRUCE F. VENTO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. VENTO. Thank you, Mr. Chairman, to say nothing of all the free radio time I received in the Pacific Northwest last fall. [Laughter.]

I might add, Mr. Chairman, that I think that both of us, in joint hearings with the other committee, really have built a background and a good record for the past 2 years. This year we are going our separate ways, but I think the spirit of cooperation between your subcommittee, Congressman Morrison, and the others on it—now of course we have Congressman Jontz serving on the House Interior Committee with myself and others—so I think we really have developed a record and background in this that has certainly prepared us to do our jobs this year.

I appreciate your kind comments and encouragement with regard to the legislation that I have put forward. I think we're all interested, and recognize this hearing as an important step to resolve a very urgent problem that is affecting the lives of thousands of people in the Pacific Northwest.

Opponents of my proposed ancient forest legislation claim that it would cost too many Pacific Northwest timber jobs. I disagree. I think timber jobs are being lost today before any legislation has become law as the economy in the Pacific Northwest changes, partly as a consequence of the recession, but largely because of other changes that are unrelated to it, by virtue of the lack of policy and policy direction, and of course pending new legislation.

By solving the current crisis, the measure I have put forth could actually save some substantial timber jobs that may well be eliminated by law suits, injunctions, and appeals associated with the present old-growth forest northern spotted owl. Absolutely the worst scenario that could occur for workers in communities in the Pacific Northwest would be for the national Government to be nonresponsive with no new policy, no legislation, and thus allow the current crisis to continue without predictability, without stability, and without certainty.

People are suffering today not because of the legislation before you, but because we have waited so long to move forward on the issue. Administrative policymakers—it seems to me—have deliberately decided not to be a part of a workable solution. Too many have clutched to their high moral ground on all sides or denied the real problem that exists. Ironically, I think that the Forest Service is the preeminent land management/forest management agency in the world, and yet we are denied, to a large extent, that expertise to be brought to bear on that topic.

It is regrettable. I hope that we will look beyond the history today and move forward. Frankly, we have drawn liberally from the professionals in the Forest Service, and in the profession of forestry, to try to draft the measure before you. I think if it has any salability or any soundness, that is largely attributed to the academic and the professionals that have assisted us in working on these policy measures.

What is really happening, of course, in the Pacific Northwest today is that timber jobs are being lost and people are losing jobs because of the modernization of mills. They are losing jobs because each year the timber industry continues to export a large number of board feet—3.6 billion board feet—of raw logs to Pacific Rim nations, instead of sending them to American mills that employ American workers. If we are concerned about that—and we took a tentative step last year—there may be more that we may need to do along those lines.

Most of all, we are losing jobs because, of course, the past administrations have refused to allow the Forest Service and the BLM to follow the environmental laws of this Nation, with the devastating result that the courts have found that the agencies are out of compliance with the laws. They gambled, and they lost, except that it's the workers and the people in the Pacific Northwest that are paying the price. We have a right to expect better.

The courts have had little real choice, given the facts, but to shut down much of the Federal timber programs in the Pacific Northwest. I think much of this was easily predictable. If the land management agencies had followed the laws from the beginning, much of the present hardships could have been tempered, but they sought a short gain or short-term relief, only to suffer now, of course, more severe problems today.

Now the crisis at hand is that we all face gridlock over the management of these Pacific Northwest forests. We could have jumped in 2 or 3 years ago, if we had known the consequence, or had the background information. Frankly, that is difficult for a legislative body, especially one of the size and diversity of this issue.

The only way to prevent further hardships is to process a real legislative solution and not an appropriations Band-Aid approach, which we tried a couple of years ago. All that did, again, was to compound the problem.

Any such solution, of course, must protect much of the remaining old-growth ecosystem. The American people simply will not allow the remaining remnants of this amazing reservoir of the Nation's biological diversity to be destroyed. Rain forests are important on a global basis, tempered rain forests are especially key to

our responsibility in terms of what we're doing, because of the biodiversity and other attributes that they possess.

The forests in the Pacific Northwest, of course, are a national treasure that belong to all Americans. We have no choice but to ensure their survival. The test is whether we can save these forests while at the same time bringing a level of certainty and stability to the timber industry and the economic relief to workers in communities in this area.

My proposal, the Ancient Forest Act, attempts to accomplish that. I think when we're looking at what we have to do, I think we should think about preserving what we have, conserving, using intelligently the resources that we decide we're going to harvest or expend, and to try to remediate to in fact improve or reclaim areas that have the potential to be reclaimed with regard to the environment. This especially holds true in the Pacific Northwest.

First, the measure that we have before us focuses on the entire old-growth ecosystem instead of a single species. It would establish, of course, the 6.3-million acre ancient forest reserve system in Oregon, Washington, and northern California. The Secretaries of Agriculture and Interior would have 3 years to designate the reserve system. They would be guided by a legislatively mandated scientific committee. If the Secretaries deviate from the committee's recommendations, they would have to notify Congress before designating the reserve. After the reserve system is designated, only Congress can change the boundaries. During the 3-year interim period that it would take to establish the reserve, the bill would protect 8 million acres of land.

Second, the measure would establish an Ancient Growth Research Program designed to advance the level of scientific knowledge in the importance of old growth. This of course is a long-term benefit and goal. We can't operate on the basis of knowledge that we have today with some degree of certainty. We have to take the scientific community and try to inject that into the land management policy practices that are established.

Third, the legislative policy enumerated in the bill is intended to provide certainty and stability, providing an assured level of timber harvests for at least 3 years. That is a difficult and controversial point. I noticed most recently that my friends in the conservation and environmental community are against it, as well as the industry being against it. They would just as soon have it open, each hoping for different goals in the end. I think this is going to be a controversial point.

I think we may want to say what we mean in this particular case. I would listen to your counsel and give you counsel on that particular point, Mr. Chairman and members.

The fourth point in this bill would be to help the workers and communities impacted by timber supplies. Congressman Morrison has already established some provisions like that in last year's agricultural bill and in seeking appropriations this year. I think these provisions are worth looking at. I would say that Congressman Pat Williams and others have helped me work on these provisions. They are improved from last year's bill. I would hope that you would look at them.

The fifth measure I think is important, and one that we ought to pay attention to. The measure attempts to enhance the existing forestry practices to improve the capability of the national forest land to produce more timber in the long run, and to provide timber-related employment opportunities in the short term. I think that's especially something that is important.

Of course, I look forward to working with you and your subcommittee on this legislation, Mr. Chairman. The people of the Pacific Northwest expect us to provide a predictable stable policy path out of the morass that exists today so that they can get on with their lives and be productive.

[The prepared statement of Mr. Vento appears at the conclusion of the hearing.]

Mr. VOLKMER. Before we go to the next witness, without objection, I would like to have entered into the record the opening statements of Congressman Leon Panetta, a member of the subcommittee who was not able to be here, and also Congressman George Brown, a member of the subcommittee. I would like those to be in the record immediately prior to the testimony of Congressman Vento.

At this time, we will proceed in the order in which we have members listed. Our next witness is one who also—along with the others here—has been instrumental in trying to bring a solution to the problem, Congressman Al Swift from the State of Washington.

Al, you may proceed.

STATEMENT OF HON. AL SWIFT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. SWIFT. Thank you very much, Mr. Chairman. I greatly appreciate the opportunity to address your subcommittee.

I have come to believe, as we have waded through the difficulties concerning the spotted owl and ancient forest issues, that there is in fact a need to change our forestry practices. Scientists tell us that we have learned a great deal about forests in the last 20 years, and that forest practices in the past that have met all the scientific standards that we knew, are in many instances no longer adequate. So a change, I have come to believe, is necessary.

However, I think that two things have occurred as we have pursued the change. First, it is wholly unbalanced. We are going from one extreme to another. We are leaving one set of inequities, and we are inviting a whole different set. And that is occurring in two ways. One is occurring economically—and I want to speak a little bit about that—but it is also occurring in the forests.

I have had reason in the last 5 weeks to twice go up the Skagit River watershed. What is unbalanced is that everything dealing with ancient forests and spotted owls has been aimed at the Federal forests. They are not the only players out there. What I see is some of the most terrible cut-and-run you can imagine in the Skagit River Valley, not on Federal forest land, but a little bit on State, and a whole lot on privately owned lands.

The approach that has been taken on this issue has scared the living daylights out of all the private timber owners to the point that they're going to cut their timber down because they're afraid

that they won't be able to cut them in the future. The result, I fear, may well be environmental devastation in a good many of the water sheds where that practice is going on. Had a more balanced, a more reasonable process been pursued, I suspect that that kind of reaction could have been avoided as we move to more enlightened forest management systems.

The second point I would like to make is simply that there are people out there, too. There are trees, and there are owls, and they have value. There are people out there, too. The rapidity with which this is being moved on, and the process which heretofore has been essentially through the courts, has created a situation in which people have gone from being able to make a living to where the economy of their communities is dead—not dying—but dead.

On Federal forest lands, there haven't been enough trees cut in either of the national forests in my district to—if I can paraphrase Fred Allen—stick them in an ant's navel and have enough room left over for a sesame seed and a banker's heart.

And these people have lives. They have communities, schools, and children to raise. These people have a unique sociology that has been thoroughly examined and is understood. Dr. Robert Lee, a professor at the University of Washington has done a great deal of work here. I have submitted his latest report for the benefit of the committee membership. Somewhere in this process, it is not enough to save the trees and the owls, but we must also save those families.

That will not come about cheaply. There is going to be a very serious price tag associated with what we have to do, unless we are willing to do what is right by the owls, and what is right by the trees, and forget to do what is right by the people that are affected by those policies. If you are willing to simply abandon the people, we can do this relatively cheaply, but if you are going to take care of the people in the communities, provide the transition that is necessary so that lives can proceed, this will be very costly.

I am for saving the owl, and I am for saving the trees, and I am for saving the people, but they have to go together. One is not expendable for the other. Some of my communities think perhaps the owls or the trees are expendable, and I have to disagree with them. I hear an awful lot from the other side that implies, though never is stated, that the people are expendable. That is not fair, and that is not just, and that is not what government should be about in a free society.

I thank the chairman.

[The report follows:]

Revitalizing the Timber Dependent Regions of Washington

Paul Sommers and Helen Birss

with the assistance of

**William Beyers, Mathew S. Carroll, David Holland, David Hughes,
Kirk Johnson, Robert G. Lee, Joan Machlis,
Christine Nasser, Roger Scott, Kristin K. Warren**

***Final Report
for the
Washington Department of Trade
and Economic Development***

by the

***Northwest Policy Center
Institute for Public Policy and Management
Graduate School of Public Affairs
University of Washington***

February, 1991

TABLE OF CONTENTS

EXECUTIVE SUMMARY	ii
Economic Impacts of Harvest Reductions	ii
Social Impacts	vi
Survey of Industry	vii
Policy Options	viii
 CHAPTER 1—PURPOSE OF THE STUDY	 1-1
 CHAPTER 2—THE ECONOMIC IMPACT OF TIMBER HARVEST REDUCTIONS IN THE STATE OF WA	 2-1
Introduction	2-1
Overview to Problems in the Timber Supply	2-2
Recent Developments Impacting Timber Supply	2-2
Washington State Timber Supply Problem	2-3
Description of Timber-Dependent Regions	2-5
Statewide Timber-Related Activity	2-6
Northwest Region	2-8
Southwest Region	2-8
Central Region	2-9
Study of Alternative Harvest Level Scenarios	2-10
Description of Alternative Scenarios	2-12
Results	2-13
Job and Income Impacts	2-15
Summary and Conclusions	2-22
 CHAPTER 3—THE SOCIAL IMPACT OF TIMBER HARVEST REDUCTIONS IN WASHINGTON STATE	 3-1
Introduction	3-1
Organization of the Social Impact Study	3-1
Objectives	3-1
Procedures	3-2
The Nature of Timber-Dependent Communities	3-4
Social Organization of Work	3-4
Community and Family Ties	3-9

Impacts of Timber-Harvest Reductions: A Disaster Model	3-12
Basis for Using a Disaster Model	3-12
Stages in the Development of a Disaster Scenario	3-13
Policy Options for Mitigating Impacts	3-17
Do Nothing	3-17
Retraining and Relocation Programs	3-18
Comprehensive Disaster Planning Assistance	3-18
 CHAPTER 4—STATEWIDE WOOD PRODUCTS SURVEY RESULTS	 4-1
Introduction	4-1
Survey Methodology and Sample	4-1
Survey Results	4-5
Number of Locations and Age of Firms	4-5
Structure	4-6
Technical Capacity	4-6
Profitability	4-6
Labor	4-8
Materials	4-10
Markets	4-11
Expansion Plans	4-14
Growth Trends	4-16
Investment Strategies	4-17
Technical and Financial Assistance Needs	4-18
Cash Flow	4-19
Factors Important for Current Operation	4-20
Conclusions	4-21
 CHAPTER 5—WOOD PRODUCTS SURVEY: A REGIONAL FOCUS	 5-1
Introduction	5-1
The Olympic Peninsula Region	5-1
Overview to the Region	5-1
Wood Products Survey Results	5-13
Summary	5-22
The Northwest Region	5-23
Overview to the Region	5-23
Wood Products Survey Results	5-33
Summary	5-42

The Southwest Region	5-43
Overview of the Region	5-43
Wood Products Survey Results	5-55
Summary	5-64
The Central Region	5-65
Overview of the Region	5-65
Wood Products Survey Results	5-78
Summary	5-84
 CHAPTER 6—POLICY OPTIONS FOR REVITALIZING TIMBER-DEPENDENT REGIONS	 6-1
Introduction	6-1
Options for New Economic Bases for Timber-Dependent Regions	6-1
Diversifying the Wood-Products Industry	6-1
Reaching Beyond a Wood-Products Economy	6-2
Capitalizing on Tourism	6-3
Grasping the Opportunities	6-3
Defining the Public Role	6-4
Background to Policy Development for Timber-Dependent Communities in Washington State	6-4
Timber Community Responses to Needs Assessment	6-5
State Response to Areas of Need	6-15
Recommendations for Developing New Economic Bases in Timber-Dependent Communities	6-27
Adding Value to Wood Products	6-27
Promoting Diversification Beyond Wood Products	6-28
Expanding Tourism	6-29
Conclusion	6-30
 APPENDIX A—MODELING METHODOLOGY	 A-1
Economic Impacts to the Northeast Region	A-14
Estimated Impacts Using the Administration Taskforce Recommendation	A-17
 APPENDIX B—ECONOMIC DEVELOPMENT SURVEY	 B-1
 APPENDIX C—FREQUENCY DISTRIBUTION	 C-1

Chapter 3

**THE SOCIAL IMPACT OF TIMBER HARVEST REDUCTIONS
IN WASHINGTON STATE**

Robert G. Lee
Matthew S. Carroll
Kristin K. Warren

INTRODUCTION

This chapter summarizes results from in-depth interviews with people who will be affected by substantial reductions in timber harvests in Washington State. The overall purpose was to reveal how decisions to reduce timber-harvest levels would affect the lives of people, and then to suggest what Washington State could do to mitigate adverse social impacts. We committed ourselves to an accurate portrayal of the perceptions and beliefs of individuals in timber-dependent communities. An understanding of how these individuals are and will be affected is essential information for structuring future policy debates and remedial programs.

More detailed analyses of results will be forthcoming in technical publications. Additional analysis will focus on three specialized topics: (1) the overall importance of personal identity in timber-dependent communities, (2) the essential role of women in the resiliency of timber-dependent communities, and (3) community impacts of reduced timber harvesting as a human-caused disaster.

ORGANIZATION OF THE SOCIAL IMPACT STUDY**Objectives**

The study was guided by three objectives.

1. To identify likely social and community impacts associated with timber-harvest reductions;
2. To test four hypotheses representing the cause and effect processes governing how people will adjust to externally imposed change:
 - (a) Loggers are members of geographically dispersed occupational communities and share a strong occupational identity.
 - (b) Millworkers in small towns are attached to residential communities and have a weak sense of occupational identity.

- (c) Transformations of personal identity are key events in successful adaptation of workers to loss of wood products job opportunities.
 - (d) Given the importance of personal identification with occupational or residential communities (Hypotheses a-c), conventional labor market adjustment policies (e.g., retraining, extended employment benefits, temporary mortgage assistance, and relocation counseling) will be only partially successful in mitigating impacts.
3. To recommend policy options that may be successful in mitigating impacts of timber-harvest reductions on loggers, millworkers and other affected occupations in small towns.

The first three hypotheses were designed to replicate (across space and time) earlier findings about basic cause and effect processes governing the social organization of wood products communities. The resistance of these hypotheses to the challenge of new information establishes an important foundation for assessing the potential adaptability of wood products workers. Evaluation of the fourth hypothesis and consideration of policy options for mitigating impacts rests on the strength of these hypotheses to provide an understanding of the nature of timber-dependent communities.

Procedures

Likely social and community impacts were identified by reviewing three sources of information: (1) published literature and reports; (2) interviews with community officials, social workers and health care providers, and other experts who have studied this or similar problems; and (3) interviews with members of communities.

Information used to evaluate the first three hypotheses was gathered from interviews with wood products workers and proprietors (loggers, truck drivers, sawmill workers, shake millworkers), owners of local businesses, and local officials and other citizens with a reputation for knowing their community and its people. Three communities were selected as case study sites: Darrington (including some interviews in Skagit Valley in the Marblemount/Concrete area), Forks, and Raymond. The wood products industries in Darrington and Forks are heavily dependent on old-growth harvesting on public lands, and would be severely impacted by proposals for old-growth preservation. Raymond is almost entirely dependent on second-growth harvests from private and state lands and would be only indirectly affected by proposals for old-growth preservation. Raymond would instead be affected by the anticipated decline in private harvesting in southwest Washington.

All three communities were relatively homogeneous in their dependence on wood products or other primary industries. As a result, there were few advocates for old-growth preservation and little visible community conflict between wood products workers and such advocates. Similar community studies in California, have instead focused on communities with substantial intra-community conflict.¹

We interviewed both workers and proprietors and their spouses. This focus on the importance of family structure to community organization and adaptability represents one of the most important original contributions of this study. We decided to concentrate limited resources in Darrington and Forks, obtaining

1. Jonathan Kuzel, "Forest Communities: Misunderstood and Neglected," unpublished report, Department of Forestry and Resource Management, University of California, Berkeley, 1990; Louise Fortmann, Jonathan Kuzel, Cecilia Danks, Leslie Moody, and Sheila Seshan, "The Human Costs of the California Forestry Crisis," Presentation to The Concern for Sustainable Forests, Department of Forestry and Resource Management, University of California, Berkeley, October 3, 1990.

as much information as possible on the impact families experienced from real and threatened harvest reduction. As a result, funds were exhausted before we could complete interviewing in Raymond.

Individuals to be interviewed were chosen through a combination of stratified and selective sampling.² The above mentioned occupational groups were treated as strata within which individuals were selected according to their reputation for being reliable sources of information about the community and their work. We were unable to realize our objective of selecting people from strata defined by employment status (employed, unemployed, and re-employed in another occupation) due to the unusual conditions of employment during the summer of 1990. Snowball sampling techniques were used to identify appropriate candidates within strata.³

The number of individuals interviewed within each occupational category was dictated by the rules of analytic induction.⁴ Each interview was undertaken with the objective of falsifying working hypotheses. Working hypotheses were modified or rejected when their generalizations were challenged by information accruing from the interview. Interviewing within a strata continued until modified working hypotheses resisted the challenges of several interviews or were rejected outright. Sample size varied as a result of this method.

A total of 106 individuals were interviewed in the three communities. Of the 106, 24 were loggers, 11 were spouses of loggers, 29 were millworkers, 5 were spouses of millworkers, 16 were shake and shingle workers, 3 were spouses of shake and shingle workers, 9 were businesspeople, and 18 were community informants (community leaders, officials, teachers, etc.). As some of the people interviewed fell into two different categories, the total and the sum of categorical totals do not match. Results from these interviews are not reported as statistical summaries, since the method used in this study was designed to maximize the efficiency of challenging the internal validity of hypotheses rather than to make statistical inferences. Consequently we chose to sacrifice the external validity that could be gained by maximizing the ability to generalize results to a population. Random survey sampling of a regional population of workers would have been used if the objectives had been to describe worker attitudes rather than to reveal the underlying cause and effect processes governing human adaptability to imposed change. Future survey sampling studies will be needed to evaluate the generalizability of these results.

Interviewing involved in-depth questioning about individual attachments to occupation, place of residence, and extended family. Questions about residential and work history, and outlook for the future, were used to evaluate the potential for elasticity in attachments to occupations or places of residence. Expressions of stress originating with uncertainty about future employment were also noted. Cases of transformations in personal identities associated with changes in work status were studied very carefully wherever available.

The fourth hypothesis (the limited success of conventional labor market adjustment policies) could not be tested by the method of analytic induction. The most rigorous challenge to this hypothesis would require real-world experimentation. However, the plausibility of this hypothesis was evaluated by interpreting the results of the first three hypotheses. If all three hypotheses resist attempts at falsification, then three primary contradictions to the fourth hypothesis will have been eliminated.

Alternative policies for mitigating impacts were identified by discussing the results from this analysis with several experts. Ms. Billie Zeller Lawson, a social worker specializing in the treatment of trauma victims and their families at Harborview Medical Center in Seattle, provided advice on social service delivery. Dr. Katherine Briar, a Professor at Florida University, provided advice on dislocated worker

2. B. G. Glaser and Anselm Strauss, *The Discovery of Grounded Theory: Strategies for Qualitative Research*, New York: Aldine Publishing Company, 1980.
3. Norman Denzin, *Sociological Methods: A Sourcebook*, Chicago: Aldine Publishing Company, 1970.
4. Glaser and Strauss, 1980.

impact mitigation. Dr. Paul Sommers, Northwest Policy Center, and Mr. George Wyatt, Oregon State Department of Employment Security, provided advice on the role of worker adjustment programs. Dr. Louise Fortmann at the University of California, Berkeley provided advice on community impacts and development.

THE NATURE OF TIMBER-DEPENDENT COMMUNITIES

The cause and effect relationship between timber-harvest reductions and effects on individuals will be mediated by intermediate levels of social organization in timber-dependent communities. These mediating social structures generally involve networks of primary social relationships. People are tied together by a religion, common occupation, place of residence, and/or family or clan membership.⁵ We will focus first on the social organization of work in two timber-dependent communities and then turn to community and family ties. These summaries demonstrate that the first three hypotheses withstood our attempts to challenge them with facts about people's lives.

Social Organization of Work

Loggers. The current study builds on previous research conducted in the early- and mid-1980s which focused on Northwestern loggers.⁶ That research found that the loggers constituted what sociologists call an occupational community. The loggers interviewed and observed in previous work were found to have very highly developed occupational identities:

It became clear early in the participant observation that occupational identity is created and reinforced by in-group interaction. Logger-like behavior and attitudes are reinforced and nonlogger-like ones are discouraged or even ridiculed...

Occupational identity has two interrelated consequences for the logger. One is to foster what is often a very intense attachment to occupation; the other is to provide the individual with an identity and its accompanying sense of empowerment and purpose. "Getting the logs to town" is such an important mission that it is accomplished in spite of weather, steep ground, equipment failure, fires, and worst of all, interference from the Forest Service and assorted environmentalists. Possessing the skills and courage to accomplish this difficult task leads the logger to set himself apart from ordinary people.⁷

The narrative goes on to state:

Many of the loggers observed and interviewed were taught since childhood to believe that logging is the only acceptable way to make a living. In a typical case, an individual may have followed his father's footsteps, devoting ten or twenty years to developing skills and reputation as a good logger. In the course of that time he would have received numerous affirmations from those around him that served to strengthen his identity and commitment to the occupation. He would have developed a circle of friends largely from the occupational

5. Mark Granovetter, *Getting a Job: A Study of Contacts and Careers*. Cambridge, Mass: Harvard University Press, 1974; Peter L. Berger and John Neuhaus, *To Empower People: The Role of Mediating Structures in Public Policy*. Washington, D.C., 1977
6. Matthew S. Carroll and Robert G. Lee, "Occupational Community and Identity Among Pacific Northwest Loggers: Implications for Adapting to Economic Changes," in Robert G. Lee, Donald R. Field, and William R. Burch, Jr. (eds.), *Community and Forestry: Continuities in the Sociology of Natural Resources*. Boulder, San Francisco, and London: Westview Press, 1990, pp. 141-155.

group and many of his leisure time activities would be in one way or another related to logging. If such an individual is suddenly faced with the fact that "working in the woods" is no longer a viable alternative, he not only loses a means of earning a wage, he loses an important part of his identity and sense of personal empowerment as well. The more firmly attached an individual is to this occupational identity, the more traumatic and disorienting this kind of experience is likely to be.⁸

The interviews conducted with loggers and their families for the current study yielded strikingly parallel results. If anything, the sense of identification with the occupation and with fellow community members appeared in some cases to be even stronger than observed in the original study. Perhaps this is due to the sense of embattlement that many interviewees felt over the current spotted-owl crises.

One logger spoke about others loggers in this way:

Most all my friends are loggers. I have a lot of respect for other loggers because I know what they do. It comes out of really knowing the hard work and the danger that they face. Besides, a logger is somebody you can really count on anytime, for anything...

The sense of identification by the men who work as loggers was confirmed by interviews with their spouses. In many cases, spouses interviewed were more explicit than their husbands when describing the nature and strength of the men's occupational identity.

Explaining her husband's attachment to logging, one woman said:

He was born a logger. That's just who he is. His grandfather was a timber cutter. His father was a timber cutter. He loves it. I can tell you that no matter what happens, he's gonna be in the woods...period!

Another women spoke about what would happen if her husband could not log anymore:

It would be a tremendous blow to him, to his ego, to leave logging. He has put so much of himself on the line for the job over the years...since its so dangerous, you have to. Its a macho thing too. He would be so hard on himself about it; he would feel as though he had really failed.

One theme which emerged quite commonly in interviews was a two-level response on the part of the logger to the current crisis. On the one hand, the interviewee would go on at length about how the future of the occupation was very bleak: "There is no future in logging" was a commonly stated sentiment. Yet at another time in the conversation, the same interviewee would state or imply that he had no plans other than to stay in the occupation.

Along with this strong occupational identity we found deep-seated anger at those whom loggers perceive to threaten their occupation and way of life. As one astute observer noted, many of the loggers have lived their lives believing that if they went to work every day and worked hard, then their families would be provided for. Now many believe that someone more powerful than they has changed these rules with little or no notice. Some of the loggers we interviewed expressed profound levels of disillusionment and betrayal. One stated:

We feel attacked and betrayed. For us the American dream is being betrayed...

7. Ibid., p. 147.

8. Ibid., pp. 151-152.

another logger expressed similar sentiments:

If this thing happens, I might just move out of this country...just because I feel so disgusted...and betrayed by the government.

Many loggers also expressed anger at people they called "urban environmentalists" and "reservationists." They felt that these people were accusing them of "destroying the forest" or "raping the earth." As one logger put it:

I've lived and worked in the woods all my life. I love it; if I didn't love it, I wouldn't be here. I hunt and fish. I depend on the woods. How can anyone who knows less than I do about the woods say that I am not an environmentalist? I am as much of an environmentalist as anyone.

Related to the loggers' strong sense of occupational identity is their frustration over the present set of difficult circumstances. There is a long-standing tradition of innovation and problem solving within the occupation. However, the problems loggers are accustomed to solving are those related to overcoming physical and mechanical obstacles that crop up in the process of "getting the logs to town." They are not accustomed to engaging in abstract political problem solving. It is, therefore, disconcerting to them to find themselves deeply entangled in what they see as a political situation. One logger expressed his difficulty in dealing with the situation like this:

The uncertainty and powerlessness is unbearable. I think about it all the time. Every day, hour, minute I am worried about what will happen. Maybe my mind will wander away from it for a bit but it always comes back...

There was a widespread feeling among the loggers interviewed for this study, that not only are powerful political forces attempting to prevent them from cutting trees, but, that much of society no longer shares their traditions of independence and hard work. From their perspective, much more than jobs and economics are at stake, and no acceptable solutions are apparent.

Sawmill workers. The nature of occupational identity is more complicated among sawmill workers than among loggers. For instance, the distinction between owners and workers is much clearer in the sawmilling industry than in logging. Most lumber is sawn by medium-to-large-sized sawmills. Discrete work roles are defined in terms of the routine tasks required at each stage in the manufacturing process. Work is highly repetitive, and efficient; a particular task is generally valued over versatility or initiative. Unlike loggers, most sawmill workers experience very little control over the work environment. As a result there is a long history of union organization among sawmill workers, and much more conflict between management and labor than in logging. Such long-standing differences between sawmill workers and loggers were documented as early as the mid-1940s by Norman Hayner in a study conducted on the Olympic Peninsula.⁹

Results from interviews conducted for the current study concur with expectations that millworkers' occupational identities are quite distinct from those of loggers. There are certainly parallels with loggers, lasting to pride in skill on the part of millwrights, sawyers, and others with more highly skilled milling jobs. The sense of identification with the occupation as the primary focus of one's life, however, was not found among the millworkers we interviewed.

One of the complicating factors in characterizing sawmill workers relates to unionization. While independent loggers tend to share many interests with industry managers (particularly on the issues related to restrictions on logging), the fact that many sawmill workers identify with unions generally leads them to

Hayner, 1945.

identify less with the timber industry on this particular issue. A further complication was found in one of our case studies. A major forest-products employer had been successful in breaking a strike which some union members had not wanted in the first place, but had felt compelled to support by virtue of union membership. Strikers who refused to go back to work were replaced. For many, this outcome resulted in bitterness toward both the union and the company.

Such bitterness resulted in a rather complicated set of perceptions and feelings on the part of sawmill workers. Many who were interviewed felt alienated from both the timber industry and the outside political forces advocating sharp reductions in old-growth harvesting.

Further, the consequences of sudden timber-harvest reductions are somewhat different for millworkers than for loggers. While millworkers tend to have less of their identities invested in the forest-products industry than is the case for loggers, they still face serious problems in terms of finding equivalent employment. Their skills are in many cases transferable to other manufacturing industries, but finding other jobs is problematic and in most cases would involve uprooting their families and relocating to urban areas -- an option that many find distasteful. One millworker expressed his feelings this way:

Why should I retrain? I am a millwright. I don't want to be anything other than a millwright. Why should I have to? I am very good at what I do.

Unlike loggers, millworkers commonly stay with one employer for many years, in some cases for a working lifetime. Thus, they typically have neither the background nor the job seeking networks that would prepare them to locate other work.

Shake and shingle workers. Another group of timber-dependent workers is employed in the cedar shake and shingle industry. Most shake and shingle mills are independent family-owned-and-run operations. The shake and shingle workers we interviewed expressed a very strong attachment to their community and location. In contrast to loggers, they displayed little attachment to their occupation, but rather, expressed anxiety at the possibility of not being able to find work in another industry which would pay comparable wages and allow them to remain in the area. Some claimed that they would not move from their homes regardless of what might happen to their jobs; they stated that their family was their support system, and therefore, it would be "crazy" for them to move away from their families during a time of high stress (such as job loss).

Workers, as well as owners of shake and shingle mills, have grown accustomed to the fluctuations in supply and demand that affect their work and wages. In this sense, they are flexible and have learned to make do with changing economic circumstances. The "working time" and "down time" at the mills are not only scheduled around cedar supply and demand, but holidays, and sometimes even hunting seasons.

If they lose their jobs, the shake and shingle workers are faced with somewhat different prospects than other timber industry workers. Some displaced workers in the industry, as long as they were not self-employed (as are many owners of shake and shingle mills), are eligible for programs such as Federal-State Unemployment Compensation systems, Title III of the Job Training Partnership Act, and assistance related to financial need (welfare).

In addition to these programs, employees at shake and shingle mills are eligible for Trade Adjustment Assistance (TAA), due to the fact that they work in an industry that competes with foreign trade.¹⁰ Although this program has a lengthy certification procedure, it offers a much longer time period for cash

10. James R. Storey, "Adjustment Assistance for Workers Dislocated by Federal Policy Initiatives," Statement before Subcommittee on Regulation, Business Opportunities and Energy, Committee on Small Business, U.S. House of Representatives, Congressional Research Center, Library of Congress, Washington D.C., July 3, 1990.

benefits (up to 78 weeks), and other benefits such as cash assistance while retraining, as well as paying part of job search and relocation costs.¹¹

Despite the possibility of being eligible for more comprehensive social services to assist them in retraining and readjustment, some of the older shake and shingle workers we interviewed balked at the idea of participating in such programs. They said that they were too old to be hired in a new profession, and that they would be wasting tax payer's money in order to acquire a second unemployable skill. Other shake and shingle workers restated that they do not want to move, and since there are no other industries in the area, retraining does not seem like a viable option to them.

Community businesses. We also conducted interviews with community members who own or work for enterprises that indirectly depend upon the timber industry: truck shops, grocery stores, taverns, restaurants, hardware stores, drug stores, and other local businesses. Owners of these independent businesses tend to exercise community leadership in small towns. They identify closely with the values and needs of the local wood products enterprises, though some of their economic interests may differ. Like rural Americans throughout our history, they work hard to make the "town" a center for community identification and commitment.¹² Local institutions, including community celebrations such as parades and logging contests, are promoted as a means for building community identity and pride.¹³ Like logging and sawmill entrepreneurs, those who own local businesses have invested their life savings and years of long hours in their enterprise. Their enterprises are rooted in the town, and rise and fall with the success of the local wood products industries.

Many local business people that we interviewed were quite distressed at the possibility of timber-harvest reductions. Many are involved in the local community economic development committees for their town. Some expressed fears that their business would go bankrupt if such reductions were implemented. On the other hand, some of the business owners stated that they were hoping the community could diversify so that other industries could replace the timber industry and their business might be able to survive.

Although, in general, business people expressed sympathy with the situation of timber industry workers, many wanted to create a more "stable" environment for their business and for the community, and saw economic diversification as a key to achieving this stability. This alternative focus on the timber supply issue seemed to cause some tension between some of the timber industry workers and some of the business owners. One businessperson stated:

As a community member, and especially as a businessperson, I am under a tremendous amount of pressure to "take sides," to commiserate for people here constantly about the situation. Don't get me wrong, I am concerned for them and the community, but I think I am personally going to make it. My future is bright here in town regardless of downturns in the timber industry.

Some of the timber industry workers felt that any attempts at economic diversification heard thus far, had not addressed their situation, but looked solely to benefit the business community. In other words, they felt they would be displaced, and new people would move into the community to fill jobs that would be created by new industries.

11. Ibid.

12. Philip Abbott, *Seeking Many Inventions: The Idea of Community in America*, The University of Tennessee Press, 1987.

13. Daniel J. Boorstin, *The Americans: A National Experience*, New York: Random House, 1965.

Community and Family Ties

Attachment to place. It is quite obvious that any research effort that attempts to assess the effects of external forces or decision making on local communities needs to address the issue of attachment to place (home). The research literature indicates that attachment to place is a complicated phenomenon.¹⁴ In the case of the present study, the meaning and importance of attachment to place varied among groups in the community. Before turning to these differences, some themes common to members of all groups we interviewed will be briefly discussed.

One theme common to all groups was the high value placed on a rural way of life. This value was expressed in terms of community characteristics such as relative freedom from crime, freedom from traffic congestion, and easy access to outdoor recreation settings. A number of those interviewed stated that they found it ironic that the spotted-owl controversy originated with people from urban communities who might make an occasional visit to the forest and then attempt to impose their aesthetic standards on rural people who use and appreciate the forest for work and recreation on a much more frequent basis.

Another fairly universal aspect of attachment to rural living is the intimacy of small town life. As was found in Gold's studies of ranching communities, we observed that people placed high value on being known by neighbors, shopkeepers and others.¹⁵ The resulting sense of belonging was perceived by many to be absent from urban life. One interviewee stated:

I've lived here all my life...when I walk down the street everybody greets me, everybody knows everybody around here...besides, look around you at this community with all its natural beauty. Why would I want to live anywhere else?

Interviews also uncovered differences in attachment to place. Loggers were found to be more attached to occupation than to place. As the results of prior research indicate, loggers almost universally stated that if they had to, they would rather leave their homes and communities than leave the "woods."¹⁶ Reasons for this have been discussed previously above, but it should be noted that most spouses of loggers we interviewed would support their husband's wishes in this regard (if, for example, a logger had to go to Alaska in order to find work). Spouses were even willing to incur considerable costs to themselves, in terms of living apart from their husbands for extended periods or uprooting themselves and their children from familiar social networks.

Sawmill workers and shake and shingle workers, on the other hand, expressed more attachment to place and to kinship networks than to occupation. To them, occupation was seen as a means to a comfortable livelihood and a way to maintain a desirable lifestyle in a quality living environment.

Role of women. In American agriculture, women have always helped with the farm work, but were simultaneously considered too delicate for the physical demands of being a farmer. Consequently, "farmer" is considered a masculine noun, and "farming" a masculine occupation, to most Americans, despite the many modern farm women who take care of everything from keeping the books to running the tractor.¹⁷

14. Clive C. Taylor and Allen R. Townsend, "The Local Sense of Place as Evidenced in Northeast England," *Urban Studies*, 13, 1976, pp.133-146.

15. Raymond C. Gold, *Ranching, Mining and the Human Impact of the Natural Resource Development*, New Brunswick: Transaction Books, 1985.

16. Carroll and Lee, 1990.

17. Frances Hill, "Why Women Deserve More Opportunity in Farming," in H. Wayne Johnson (ed.), *Rural Human Services: A Book of Readings*, Itasca, Illinois: F. E. Peacock Publishers Inc., 1978.

Women in timber-dependent communities face a similar situation, except that the term "logger" seems to remain a masculine term in reality as well as in image. In our interviews we did not encounter any women working in the woods. Although there are women working in many other capacities in the timber industry, the scarcity of women loggers, as well as the strong male imagery associated with logging, tends to obscure the many important roles women play in timber-dependent communities.

In addition to interviewing women who are spouses of timber industry workers, we also interviewed women who functioned in a variety of other capacities. Some were millworkers, some owners of family logging operations and local businesses, and others were serving as community leaders. Most of the women interviewed held jobs outside the home, and were responsible also for the majority of the housework, made most of the day-to-day financial decisions of the household, and took care of the children. As with other rural women in America, most of the women cited financial need as the primary reason that they work outside the home.¹⁸

Despite their diverse situations, many of the women expressed similar concerns over the possibility of timber-harvest reduction. Concerns seemed to center around possible job losses and the resulting emotional and economic stress that might be faced by the family. Women also expressed fear of having to move away from their community in search of a better economic situation. They felt that the stress caused by leaving the area would be compounded by the possible break-up of the extended family to which the women normally turned for help.

In many rural families, tensions are minimized by the routinization of activities. If a routine is threatened or disrupted, serious tension can result.¹⁹ In the interviews conducted with the spouses of timber industry workers, many women stated that this tension had already begun to affect their family.

For example, many of the wives of loggers stated that due to the uncertainty generated by the proposed changes in available timber sales, their husband had to travel further and further to work, and sometimes had to spend weeks at a time away from home. In the absence of their husbands, the wives of loggers were required to assume all the household and family-related duties that their husbands would normally perform. The assumption of extra duties was frequently exhausting, and wives faced yet another difficult transition back to the previous balance of roles upon a husband's return. Many of the women stated they felt that an even greater change, such as the loss of the husband's job, would cause an even more serious disruption of roles, generating a dangerously high level of stress on the marriage and family. One woman described dealing with the effects of the uncertain wood supply on her husband's shake and shingle mill:

It seems lately that we are always arguing. We never used to argue, but now he is constantly on edge worrying about the situation. I try to be positive and supportive, but we both know the situation is bad.

The spouses of loggers also expressed fears about their husband's ability to change jobs. Some felt logging to be such a big part of their spouse's identity, they could not imagine him doing anything else. Others felt that the nature of logging itself, with its dangerous working conditions, and its traditional commitment to hard work and endurance, made it particularly difficult for loggers to accept having to leave the profession. They would take their job loss as a personal failure, rather than an economic or political displacement.

Spouses of millworkers and women working in lumber mills and shake and shingle mills express more tension concerning possible economic problems and dislocation about losing their attachment to the

18. Karen F. Folk, Sharon Y. Nickols, and Claudia J. Peck, "Social-Psychological Factors Related to the Work Status of Rural Women," *Lifestyles: Family and Economic Issues*, 9:4, Winter 1989.

profession itself. They worried that they and/or their husbands could not get a job at comparable pay without retraining and relocating. They wondered how they could possibly manage such changes and what toll it would take on their marriage and children. Women with family-owned businesses that were either directly a part of, or dependent on the timber industry, faced economic threats similar to other wood products workers in the community. In addition, the added stress of family tradition and involvement in the business might seriously complicate their situation.²⁰ Tension generated by economic instability might become fused with family tensions and increase the likelihood of family members blaming one another or projecting on to family members their frustrations with the business.

Most of the women interviewed expressed the belief that women carry much of the burden of stress in the community. They also expressed concern about their own ability to hold up under increasing stress. Women stated that in addition to their own jobs or other activities outside the home, they must deal with the changing economic situation, in terms of planning family expenditures, as well as the increasing demands for emotional support for their husbands and children. Such a "pile up" of changes caused by a rural family's attempt to adjust to economic stresses can be the cause of more serious stress, or possibly even the break down of family coping mechanisms.²¹

This study found, as did the ethnographic study of rural Bushler Bay (Quilcine), Washington, by Colfer and Colfer, that women interviewed were in varying degrees economically dependent on their husbands, but were active in women-centered volunteer networks that commonly address community issues.²² Some women said they enjoyed their work in such groups, and others said they felt that since their husband often worked longer hours at a more physically demanding job, it was expected that women would spend more time dealing with current community issues that need attention.

Many of the women expressed a desire to be more active in their attempts to publicize what would happen to their community if the timber-harvest restrictions were put into place. Some had become spokespeople for timber advocacy groups. Others had written letters and attended rallies. However, some women said that they felt immobilized by the increasing demands placed upon them, and had little energy left to go out and do anything about it.

Some women, whose spouses had been on strike in the past, or had taken cuts in pay while working in the timber industry, said they had difficulty finding a means to express their support for the workers in the industry in a way that was not wholly supportive of all aspects of the timber industry itself. Unlike the spouses of gyppo loggers, independent truckers and others who work outside the structure of a large company, these women felt as though they could not afford to put energy into supporting the "industry," since its survival does not necessarily mean that the company will continue to employ their husbands. They were afraid of being used by the company, and felt frustrated by the lack of avenues for expressing their specific feelings on the issue without being lumped together by the media and others under one simple banner.

While a 1986 study by Kenkel²³ indicates a history of rural communities shunning professional social service agencies, a more recent study by Price and Dunlop²⁴ in rural Eastern Washington showed acceptance of employment-related services in times of community-wide economic stress. In fact, many of

-
19. Paul C. Rosenblatt and Roxanne M. Anderson, "Interaction in Farm Families: Tension and Stress," in Raymond T. Coward and William M. Smith (eds.), *The Family in Rural Society*, Boulder, Colorado: Westview Press, 1981.
 20. Mary B. Kenkel, "Stress-Coping-Support in Rural Communities: A Model for Primary Prevention," *American Journal of Community Psychology*, 14:5, 1986.
 21. Randy R. Weigel, "Coping with Economic Stress: Implications for Helping Professionals," *Lifestyles: Family and Economic Issues*, 9:4, Winter 1988.
 22. C.J.P. Colfer and M. Colfer, "Inside Bushler Bay: Lifeways in Counterpoint," *Rural Sociology*, 43, 1978.
 23. Kenkel, 1986.

the women we interviewed expressed concern with the lack of social services available in their community. Although specific complaints varied, many women felt that the existing social services are inadequate to deal with the possible effects of massive job loss.

Women also expressed concern that any new social service programs be based in the community, and be sensitive to the specific character and needs of the community. Especially when dealing with particularly sensitive issues, such as increased alcohol or substance abuse and family violence that may be triggered by job losses and other economic stress on the family, the programs must be accessible to people who may not be accustomed to receiving social services. Also, they felt retraining programs must not only be matched to the specific nature of the workers who have been displaced, but must also be matched to the needs of their families.

IMPACTS OF TIMBER-HARVEST REDUCTIONS: A DISASTER MODEL

Basis for Using a Disaster Model

Significant reductions in the volume of timber available for harvesting on public lands would result from implementation of the conservation strategy for the northern spotted owl or from passage of old-growth preservation bills to be considered by Congress.²⁵ Adoption of the spotted owl conservation strategy could also require some reduction of harvesting on private forest lands. A substantial reduction in harvest would severely impact timber-dependent communities where local industries rely heavily on public lands for wood supplies. The impact on rural communities in timber-dependent regions of western Washington would be so severe that it can be most accurately described as a major disaster. (Characterization of this impact as a disaster was suggested by Billie Zeller Lawson on the basis of her assessment of the trauma likely to be experienced by individuals affected by substantial reductions in timber harvesting within a short period of time.)²⁶

A decision to characterize harvest reduction impacts as a disaster is also supported by sociological literature on stress situations. Barton defines disaster in terms of collective stress, and says that (emphasis added):

*Collective stress occurs when many members of a social system fail to receive expected conditions of life from the system. These conditions of life include the safety of the physical environment, protection from attack, provision of food, shelter and income, and guidance and information necessary to carry on normal activities.*²⁷

Failure to receive expected conditions of life can originate externally from "unfavorable changes in the environment...floods, droughts, earthquakes...loss of markets or source of supply." (Emphasis added.) Or

-
24. Dorothy Z. Price and Connie J. Dunlop, "Family Use of Community Services in Economically Stressed Rural Counties," *Lifestyles: Family and Economic Issues*, 9:4, Winter 1988.
 25. Wilbur R. Maki, "Economic and Social Impacts of Preserving Ancient Forests in the Pacific Northwest," Testimony Prepared for Hearings on the Vento Bill (H.R. 5295) and the Jontz Bill (H.R. 4492), 1990.
 26. Billie Z. Lawson, "Work-Related Post-Traumatic Stress Reactions: The Hidden Dimension," *Health and Social Work*, Fall 1987, pp. 250-258; Personal interviews: Billie Z. Lawson, "The Trauma of Unemployment: Training Module Outlines," Seattle, WA., June 1990; Billie Z. Lawson, "In Some Ways It Is Like What Happened to Vietnam Vets," *Evergreen*, August 1990.
 27. Allen H. Barton, *Communities in Disaster: A sociological Analysis of Collective Stress Situations*, Garden City, New York: Doubleday, 1970, pp. 38.

they can originate internally from "economic breakdowns such as depression, inflation, or strikes, and political breakdowns"

A disaster situation is further defined as one in which *identifiable causal agents* limit or deny realization of expectations, resulting in final cumulative and overwhelming stress upon a community. The people we studied in timber-dependent communities report failures to receive expected conditions and identified what they perceived to be causal agents for their stress: failure to receive expected wood supplies (guaranteed by the government's sustained-yield plans); failure to receive respect for their personal integrity as morally responsible members of society; failure to receive sympathy for the suffering inflicted by loss of jobs and lack of respect.

Stages in the Development of a Disaster Scenario

Previous research on disasters of similar magnitude helps us understand the ways in which people are and will be impacted.²⁸ All studies of disaster describe stages in the development of a disaster situation and in individual and group responses. Seven stages of disaster will suffice for our purposes: *warning, threat, impact, inventory, rescue, remedy, and recovery.*²⁹

Warning of significant timber harvest reductions have been circulating for years. Environmental interest groups have tried to reduce harvest levels on national forests through a wide variety of legislative initiatives and legal challenges. The 1976 National Forest Management Act sought to provide predictable harvest levels by requiring national forests to issue 10 year multi-resource plans. But the significant timber harvest reductions scheduled by these plans have been challenged, however, as insufficient by advocates for old-growth preservation.

Threat of sudden and substantive timber-harvest reductions (e.g., awareness that serious danger was imminent) became apparent in June 1990 when the U.S. Fish and Wildlife Service took action under the authority of the Endangered Species Act and listed the northern spotted owl as a "threatened species." The Interagency Scientific Report³⁰ that provided the assessment upon which this decision was based recommended the establishment of large "habitat conservation areas" centered around remaining old-growth to protect the owl and enhance chances for its recovery.

The first stages of *impact* are now becoming apparent with the increasing unavailability of federal timber. The full force of the impact will not be felt until the U.S. Fish and Wildlife Service and federal land management agencies decide on a final plan for recovery of the northern spotted owl, and/or Congress adopts legislation to preserve vast areas of remaining old-growth forest on public lands.

There have been several attempts to estimate the job losses likely to be associated with substantial timber harvest reductions in Washington, Oregon, and northern California. Studies have been sponsored by the federal government,³¹ the State of Washington,³² and the American Forest Resource Alliance (through

28. Ibid.; Robert Jay Lifton and Eric Olson, "The Human Meaning of Total Disaster: The Buffalo Creek Experience," *Psychiatry*, 39, February 1976, pp. 1-18.

29. Elmer C. Luchterhand, "Sociological Approaches to Massive Stress in Natural and Man-Made Disasters," in Henry Krystal and William G. Niederland, (eds.), *Psychic Traumatization: Aftereffects in Individuals and Communities*, Boston: Little, Brown, and Company, 1971, pp. 29-53.

30. Jack Ward Thomas, Eric D. Forman, Joseph B. Lint, E. Charles Meslow, Barry R. Noon, and Jared Verner, "A Conservation Strategy for the Northern Spotted Owl," U.S.D.A., Forest Service, Portland, Oregon, 1990.

31. Interagency Economic Effects Review Team, "Economic Impacts of Implementing the Recommendations of the Interagency Scientific Committee Appointed to Study the Northern Spotted Owl," U.S.D.A. Forest Service, Portland, Oregon, 1990.

academic studies independently commissioned by Mason, Bruce and Girard).³³ Studies of possible social and community effects have been sponsored by the American Forest Resource Alliance (through an academic study independently commissioned by Mason, Bruce and Girard),³⁴ the State of Washington,³⁵ and the State of California.³⁶

At this point in time, there are no known plans for *inventory* of immediate psychological, social and community consequences of massive dislocation, *rescue* efforts for people suffering from the effects of the disaster, efforts to *remedy* their situation, or *recovery* programs. Since economic decline and associated job losses are likely to be permanent, there will be few opportunities to remedy the ultimate causes for human suffering and a lack of any recovery stage for most communities. *Remedial and recovery* programs for individuals are essential, since existing social networks providing support will be seriously impaired or disrupted.

The remainder of this chapter devotes itself to issues imperative in planning to ameliorate the effects of the predicted disaster. We will identify distinctive characteristics of the unfolding disaster in timber-dependent communities, and then conclude with suggestions for action by the State of Washington.

Warning, threat, and impact. People in timber-dependent communities have been living with growing employment uncertainty for over a decade, and have relied on national forest plans to provide some temporary stability. High unemployment resulted from the severe recession of the early 1980s, and the social effects of economic downturn persisted well past the time when the unemployment rate returned to "normal".³⁷ Dramatic increases in labor productivity, coupled with reductions of wage rates, resulted in substantial declines in employment and some decline in earnings.

Despite dismal forecasts that the timber industry was in a steep decline, many local people saw economic instability as just the latest in a long history of "boom and bust" cycles. Seasoned wood products workers had successfully adapted to economic turbulence by developing reputations that would enable them to immediately find work when good times returned.³⁸ But this adaptation made them especially vulnerable to what was to follow.

Politically-induced reductions in federal timber harvests have succeeded a long history of industrial turbulence as the primary source of employment instability. Sudden harvest reductions present two kinds of threats: (1) loss of jobs and income, and (2) degradation of personal identity. As already noted in the

-
32. Institute of Forest Resources, University of Washington, "Three-State Impact of Spotted Owl Conservation and Other Timber Harvest Reductions: A Cooperative Evaluation of the Economic and Social Impacts," Institute of Forest Resources, Contribution No. 69, September, 1990.
 33. John H. Bester, "Social and Economic Impacts in Washington, Oregon and California Associated with Implementing the Conservation Strategy for the Northern Spotted Owl: An Overview," American Forest Resources Alliance, Washington, D.C., 1990.
 34. Robert G. Lee, "Social and Cultural Implications of Implementing A Conservation Strategy for the Northern Spotted Owl," Independent Study Commissioned by Mason, Bruce and Girard, June 21, 1990.
 35. Robert G. Lee, "Institutional Stability: A Requisite for Sustainable Forestry," Starter Lecture, Oregon State University, College of Forestry, October 25, 1990; Robert G. Lee, "Implications of Spotted Owl Conservation for Entrepreneurial Activity and Worker Retraining," Testimony prepared for a Hearing of the Subcommittee on Regulation, Business Opportunities and Energy, Committee on Small Business, United States House of Representatives, July 30, 1990; Robert G. Lee, Testimony prepared for a Hearing of the Committee on Commerce and Labor, Washington State House of Representatives, Olympia, WA, June 14, 1990; Institute of Forest Resources, 1990.
 36. Kasal, 1990; Fortmann, et al., 1990.
 37. Katherine Briser, Robert G. Lee, and Sandra Braybrook, "Dynamics of Economic Distress," Report Prepared for the Office of Governor, Washington State, 1987.
 38. Carroll and Lee, 1990.

discussion of results from interviews, the public vilification of loggers has produced significant negative effects in advance of job impacts.³⁹ According to Barton such blaming of victims can occur in disasters:

*... among those who accept highly moralistic and individualistic ideologies and values; among those with little contact with the victims; among those exposed to mass media content that explains that the victims are to blame; and among those whose social context is full of other people who blame the victims.*⁴⁰

Barton also notes that blaming of victims is less likely when the impact is sudden and random (as with tornadoes) rather than a gradual onset of "selective repression" of a particular social category of people.

All the conditions contributing to the blaming of victims are present in the disaster caused by timber harvest reductions. The blaming of wood products workers seriously complicates the responses of people to the job impacts and make *rescue, remedy, and recovery* much more difficult than in sudden disasters that strike randomly at a population.

The ability of victims to attribute a human cause to a disaster has been shown to affect both their response and their recovery. When a disaster is caused by the deliberate actions of fellow humans rather than by the impersonal forces of nature or markets people experience a "...sense of profound humiliation at the low value that ...seems to be placed on their lives."⁴¹ Like the long-suffering victims of the Buffalo Creek disaster studied by Lifton and Olson, wood products workers feel they are treated as if they are "less than human" when owls are given more importance than workers' livelihoods. These feelings were conveyed by one mill worker in this manner:

...especially the media has depicted us as if we were animals. Those of us living out here are human beings...we have rights like other human beings.

Media-related vilifications of the logger as a "murderer," "tree-killer," "buffalo hunter," or "destroyer," are symbolic *threats* that have already produced significant psychological impacts.

These *psychological impacts* on individual identities will affect how people respond to *job impacts*. In his review of multiple disasters, Luchterhand used the concept of "oppression" to refer to disasters intentionally imposed by humans.⁴² His example of the Irish famine, with its combined impact of failed potato crops and oppression by the English, is analogous in some respects to what is taking place in timber harvest reductions. Many of the people we interviewed perceived they were being oppressed by their government or "urban preservationists." Regardless of whether oppression is real or perceived, its perception will have a profound effect on the reactions and adaptability of displaced workers. In his study, Luchterhand concluded that "...as the source of the stress shifts from indiscriminate violence by nature to the discriminate oppression by man, the damage to human personality becomes less remediable".⁴³ Lifton and Olson reached similar conclusions in their review of disasters.⁴⁴

A primary reason for the difficulty victims have in recovering from human-caused disasters in which they feel themselves to be vilified is the withdrawal of sympathy, fellow-feeling, and material help that normally accompany the *rescue, remedy and recovery* phases. Such "altruistic community response to a disaster"⁴⁵ was evident in the outpouring of support extended to this winter's flood victims in Washington State. As we have learned from the traumas of Vietnam veterans, people more readily overcome the

39. Lee, June 21, 1990; Lee, October 25, 1990; Fortmann, et al, 1990;

40. Barton, 1970, pp. 253-254.

41. Lifton and Olson, 1976, pp. 1-18.

42. Luchterhand, 1971.

43. *Ibid.*, p. 47.

44. Lifton and Olson, 1976.

overwhelming experiences of an ordeal when they feel cared for, protected, and are aided by efforts to help them rebuild their lives. But when victims of disaster are blamed and ignored they internalize...[a]...diminished sense of themselves" and suffer from an "impaired capacity for recovery."⁴⁶ Statements from the interviews in timber-dependent communities express both frustration and fear:

It's as if working people are being punished. The government and the media are siding with people who aren't honest or hard working...they are siding with rich people who don't get their hands dirty.

Well, the thing is that nobody cares until you loose everything. You have to hit rock bottom before you qualify for help, and that's a dangerous situation. There is no telling if you can ever come back from that.

Inventory. There are already signs of damage to human lives and communities as a result of threatened job losses and impacts of blaming. Social workers and community officials report increases in demands for social services ranging from family counseling and substance abuse to suicide counseling. Stress originates from a chronic and unresolved sense of *threat*. Impairments in identity result from selective victimization. Some of those interviewed stated that stress was making it difficult to concentrate on their job:

Falling trees is dangerous work, and it (the stress) really adds to the danger by breaking your concentration. You're out there working, and yet your mind is worrying about what will happen to the industry tomorrow.

Others we interviewed said that the stress and uncertainty were the most difficult thing for them to deal with:

We can try to fight what is being proposed, but they are going to kill us by attrition because nobody can stand up under this kind of stress for too long.

We anticipate increasing levels of unemployment, individual and family stress, community conflict, and a growing sense of hopelessness. Many of the people we interviewed expressed this growing hopeless statements such as this one from a logger:

The people living here are like condemned prisoners. They don't know the day or time of their execution. That uncertainty is hanging over our heads.

The needs for income maintenance, counseling, substance abuse treatment, and law enforcement are likely to increase, and could rapidly exceed the capabilities of existing institutions.

There is an inadequate *inventory* of the effects of these stresses and their distribution among communities. An inventory procedure will be needed to identify and assess emerging problems so that services may be efficiently programmed, funded, and allocated.

Rescue. As with all disasters, many human lives will be placed at risk.⁴⁷ Many children will suffer from family stress. Parents must worry not only about their own situation, but how it will affect their children. As one logger said:

5. Barton, 1970.

6. Lifton and Olson, 1976; Robert Jay Lifton, *Home From the War*, New York: Simon and Schuster, 1973.

7. Lawson, 1987.

I worry about my kids. What are they learning from this? I have always taught them to work hard and be honest, yet now they see me suffering despite the fact that I have worked hard my whole life. It has to make them cynical to watch what is happening to me.

Stress and a diminished sense of self will cause some to act out their rage in family violence. Income will be inadequate to maintain styles of living to which many people have grown accustomed. Many will be at risk of losing their homes and falling into poverty, and could even become homeless. Some people won't be able to cope with the unpleasant realities they face and will escape into substance abuse, depression, or even attempt suicide.⁴⁸

A massive *rescue* effort will be required to meet the onset of the full *impact* of job losses. Existing levels of service will be inadequate in both amount of service available and appropriateness to severely victimized populations. As in other disaster situations, social stress is likely to develop to a point at which it may exceed the capacity of local government to manage conflict.⁴⁹

Remedy and recovery. *Remedy* and *recovery* efforts are most likely to be restricted to providing assistance to individuals traumatized by job losses and blaming. Local people have very little control over the political processes leading to harvest reductions, since the decisions to preserve old-growth originate at a national level and forest plans are no longer effective vehicles for making land use decisions. One interviewee stated:

Well, we are up against a big enemy, and fighting is like trying to change the weather. But I am not going to roll over and play dead. I have to fight even if it is like blowing into the wind.

The people affected have little control over the events causing the impact, and, unlike those impacted by natural disasters (e.g., flooding), can do little to *remedy* the situation (e.g., building dikes). *Remedy* and *recovery* efforts for individuals will be discussed in the next section.

POLICY OPTIONS FOR MITIGATING IMPACTS

We will present three main policy options for mitigating the individual and community impacts of substantial timber harvest reductions: (1) Do nothing beyond current efforts; (2) design and implement appropriate retraining and relocation programs; and (3) design and implement a comprehensive disaster planning and assistance program, in addition to retraining and relocation.

Do Nothing

The current approach of the federal government to this planned disaster has been to propose nothing beyond existing programs for social assistance and worker retraining. President Bush has rejected proposals for special assistance for dislocated wood products workers, and the U.S. Labor Department has told states that they can expect no new funding to mitigate impacts. This posture illustrates Barton's observation: "Economic ideologies that emphasize individual responsibility also focus blame on the victims of economic difficulties and crises. In its extreme form the individualistic ideology becomes Social Darwinism..."⁵⁰ Barton also notes how the doctrine of *laissez-faire* has been used to justify withholding assistance to victims of a disaster, claiming to protect the virtues of self-reliance and independence.

People in timber-dependent communities are strongly impacted by the confluence of two relatively independent political forces: the *laissez-faire* principles of the current national administration, and the sentiments of those who blame victims for "destroying nature." These combined forces leave victims

48. Ibid.; Lifton and Olson, 1976.

49. Barton, 1970.

relatively powerless in the face of a nationwide political movement to preserve old-growth. The failure of government to mediate this conflict between private parties of unequal power is contributing to the development of serious political conflict between rural workers and industries and environmentally-sensitive consumers, most of whom reside in urban areas.⁵¹

Retraining and Relocation Programs

Labor market theory predicts that dislocated workers will change occupations and/or move to new locations in response to economic incentives.⁵² Adjustment assistance has been proposed in the form of extended unemployment benefits, retraining, education, temporary mortgage supplements, and relocation assistance. Many government officials and others have assumed that displaced logging and sawmill workers will respond to opportunities for enhancing their skills and moving to locations where jobs are available.

Our findings regarding the social organization of timber-dependent communities revealed strong attachments to occupations, places, and localized family networks. Additionally, we found most workers became resistant, or even angry, when questioned about their interest in opportunities for retraining or relocation. Some interviewees expressed doubts about the feasibility of retraining:

Well, the future is pretty bleak for me if they take away my career and my lifestyle at age 40. What will I have left? What could I possibly turn to?

Others expressed resentment and anger:

Personally I'd rather starve to death here and just live off elk meat rather than participate in any degrading plans to move me around and change my life and culture.

These findings reinforce earlier findings that the capacity and willingness of people to adjust has been seriously overestimated.⁵³ Regardless of such limitations, however, there is an important role for retraining and relocation programs. Those who can afford to give up their income to spend one to three years in school and do not have mortgages or other heavy financial obligations (especially younger workers), will be appropriate candidates for existing programs. Temporary income assistance would significantly expand the number of candidates interested in retraining.

Comprehensive Disaster Planning and Assistance

The magnitude of the psychological, social and economic disorder likely to result from substantial reductions in timber harvests clearly justifies comprehensive disaster planning and assistance. Lacking expertise in either governmental programs or the various forms of emergency assistance, we will restrict our suggestions to identification of existing resources and their appropriateness to disaster planning.

The most comprehensive assessment of social costs for mitigating the impacts of timber harvest reductions has been prepared by the state of Oregon. The "Desk Top Analysis", prepared by the Interim Joint Legislative Committee on Forest Products Policy, estimated \$137 million would be needed over five years for retraining Oregon workers displaced by the combined effects of approved forest plans and implementation of the strategy to conserve the northern spotted owl. For the purposes of establishing eligibility for program benefits, it will be impossible to determine which jobs have been lost as a result of

50. Ibid., pp. 256.

51. Lee, June 21, 1990.

52. "Technology and Structural Unemployment: Reemploying Displaced Adults," U. S. Congress, Office of Technology Assessment, OTA-TTE-250, Washington, D.C.:U.S. Government Printing Office, 1986.

53. Lee, June 21, 1990; Lee, June 14, 1990.

the owl conservation plan, harvest reductions in forest plans, or downturns in economic activity.⁵⁴ The actual social costs of meeting the needs of displaced workers could be substantially higher than Oregon State estimates.

Another complicating factor regarding eligibility standards is the large number of independent proprietors in logging and small enterprises serving the needs of the wood products industry. The number of proprietors in logging and silvicultural services increased significantly since 1980. (None of the impact reports, including our work, have studied the impacts of timber harvest reductions on silvicultural contractors and their employees.) These people will not qualify for unemployment compensation and the other benefits normally extended to displaced workers. Given the loss of personal businesses, pride, and hope, these individuals will be among the most severely impacted.

Our interviews revealed that most workers and entrepreneurs in timber-dependent communities will experience the impact of harvest reductions as a catastrophic loss. To many it will constitute a life-threatening trauma.⁵⁵ Widespread societal blaming of these victims will inhibit the recovery process and create greater risks of long-term psychological and social harm. Hence, there is an urgent need for a comprehensive victims assistance program.

Given what we have learned about the pride and spirit of self-reliance in timber-dependent communities, conventional care-giving agencies may be effective vehicles for this assistance only under unusual circumstances. Many of the people interviewed expressed pride in the work ethic of their community:

The people who work here, even the ones who don't work in the industry, are very much affected by the hard work, hard play, helping each other—the kind of ethic that comes from logging.

Taking such intense feelings into account, we recommend that the state assess alternative approaches to service delivery. The National Organization for Victim Assistance, a non-governmental voluntary organization headquartered in Washington, D.C., has developed a Community Crisis Response Team: NOVA⁵⁶ may provide an appropriate model for developing rescue programs, and could even help plan and implement such a massive assistance program. As the impending disaster could easily swamp NOVA's volunteer resources, Washington State should consider developing its own emergency assistance plan and implementation programs.

Considerable expertise for such disaster assistance already exists within the state. Billie Zeller Lawson has developed a draft training program, "The Trauma of Unemployment: Human Reactions to Catastrophic Stress,"⁵⁷ for the Washington State Department of Employment Security. This training module could be modified and expanded to provide at least part of the guidelines needed for building emergency victims assistance programs to these communities impacted by present and future harvest reductions.

54. Lee, July 30, 1990.

55. Lawson, 1987; Lifton and Olson, 1976.

56. National Organization for Victim Assistance, "NOVA's Crisis Response Team Guidelines", Washington, D.C., 1987.

57. Lawson, August, 1990.

Mr. VOLKMER. At this time, without objection, I recognize the gentleman from Idaho.

Mr. STALLINGS. Thank you, Mr. Chairman. I ask unanimous consent that my opening statement be placed in the record.

Mr. VOLKMER. Without objection, your prepared statement will appear in the record.

[The prepared statement of Mr. Stallings follows:]

OPENING STATEMENT OF
THE HONORABLE RICHARD H. STALLINGS

This year Americans celebrate the 100th birthday of conservation and the birth of the National Forest System. Mr. Chairman, it is fitting, in this centennial year, that this Subcommittee continue its leadership role to address the critical forest management issues facing our country.

I want to commend you for holding this hearing today on an issue which is of real concern to me and of vital importance to the people of Idaho and the Pacific Northwest. I will summarize my comments and ask that my written statement be made a part of the record.

Fifteen years ago this spring, the late Senator Hubert Humphrey introduced legislation which within a matter of months became the National Forest Management Act of 1976 (NFMA). The NFMA was conceived in response to a crisis precipitated by decisions of the Fourth Circuit Court of Appeals and the Federal District Court of Alaska.

Those decisions, based on strict interpretations of the 1897 Organic Act, restricted the Forest Service timber sale program in those jurisdictions to dead, mature, or large trees individually marked and completely removed.

While the NFMA originated as a response to the 1975 court decisions, Senator Humphrey and his colleagues went far beyond that starting point.

What emerged after seven intense months of hearings, markups, floor debate, and conference work was a comprehensive bill bringing modern management techniques -- such as interdisciplinary planning -- to the National Forest System.

I recite this history as an introduction to the points I will raise this morning.

There is no question in most of our minds that we are in the midst of a national forest management crisis which makes the problems of the 1970s look like a picnic in the woods.

As a result of the listing of the Northern Spotted Owl, recent court decisions shutting down the timber sale program in the Pacific Northwest, and a growing number of appeals and litigation in my home state of Idaho and other parts of the country, our forest products industry is at a critical crossroads.

Over the next two days, we will hear from a variety of public and private sector witnesses. Each of them will offer solutions to the present situation.

I am sure that some will urge us to confine our legislative actions to the immediate issues of owls and old growth forest reserves. Others will suggest that we take a broader view and deal with the underlying problems.

I recognize that tackling the fundamental problems of forest management will require a greater commitment of time and energy. Nonetheless, I believe that like our predecessors in the 1970s, we must rise to the challenge.

I offer the following questions for us to ponder as we listen to the testimony given during the next two days:

First, should this Committee limit our legislative response to the immediate crisis, or should we confront the systemic problems?

Second, if we decide to pursue the underlying issues, should our response be built upon and integrated with the Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976?

Third, if our legislation includes amendments to the 1974 and 1976 acts, what issues should we tackle? Community stability? New forestry? Timber sale economics? Environmental documentation? Minimum management requirements? Plan amendments, revisions, and implementation? Appeals and litigation?

Mr. Chairman, I have an open mind about many of these questions. However, I must also say that it is time to restore stability in the management of our public lands.

As you know, H.R. 2463 was introduced last week by Congressmen Huckaby, Swift, and several others to address this issue. This comprehensive bill, which has been crafted by a Timber Industry - Labor Management Committee, deserves careful review and serious consideration.

Its supporters argue that the proposal would establish a long-term program that would provide a rational process to revise, amend, and implement national forest and BLM plans.

This legislation offers us an alternative approach to the continuing timber controversy in the Pacific Northwest. Furthermore, it addresses many of the programmatic conflicts that have arisen in the national forests the past fifteen years.

I am especially interested in hearing from the witnesses regarding Title II of the bill because it addresses the effectiveness of federal land planning. I am interested whether the witnesses believe that the provisions of this title could help resolve many problems which affect the forest products industry in Idaho and around the country.

That concludes my opening remarks, Mr. Chairman, I look forward to hearing from the witnesses.

Mr. VOLKMER. At this time, we recognize another player, one who has worked very hard, and of course is very familiar with the situation, Hon. Peter DeFazio from the State of Oregon.

STATEMENT OF HON. PETER A. DeFAZIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. DeFAZIO. Thank you, Mr. Chairman.

I have another appointment. If I could duck out before the questions after I testify, I would also like to come back and sit on the panel. I would appreciate it if—

Mr. VOLKMER. The gentleman would be welcome to have a seat all day long, if he likes. I think we're going to be here all day.

Mr. DeFAZIO. Thank you, Mr. Chairman. You develop iron pants with this issue. [Laughter.]

We have many people on the roster today, and I'm not going to take a lot of time, Mr. Chairman. I am here just to say that I believe that the crisis has come to rest right here in the Longworth House Office Building. I don't see any alternative or any relief on the horizon, any certainty, any stability, for advocates of either side of this issue without legislation by the U.S. Congress.

The administration is apparently paralyzed, for whatever reasons. They are moving forward with a recovery plan, which would give us some semblance of certainty for a timber harvest in about 2 years. That is not acceptable, in light of the judge's recent decision. I believe that it is incumbent upon us, as the U.S. Congress, to legislate a solution. I believe all the elements of that solution are on the table. With the range of bills that have been introduced, there are surprisingly many principles in common.

Most bills would carve out a short-term interim period during which there would be a certain level of timber harvests, and some permanent protection would be provided to certain areas and interim protection to others while a scientific process went forward. And then at the end of the scientific process, the recovery plan, the forest plans, the BLM planning process—all this would be melded back together to put together a long-term picture for the future health and productivity of the national forests and the BLM land in Oregon and the Western United States.

So the problem is that we can't get to that point without new legislative authority. I don't see how there is any way through this thicket without some positive action on the part of the Congress, as difficult, contentious, painful, and time-consuming as that might be.

I congratulate the gentleman for holding these hearings in the effort to uncover the additional elements that might go into that solution, and look forward to working with him and Chairman Vento, and others who are so deeply involved in this problem.

Thank you for your time, Mr. Chairman, and I look forward to sitting on the panel and hearing the testimony.

Mr. VOLKMER. I look forward to working with the gentleman, too. I have been in the past, and I wish to continue to do so on this issue.

Our next witness is also very instrumental in trying to bring about a solution to the problem, as all the panelists are. She has

worked on this since she has been in the Congress, and we look forward to her testimony today, Hon. Jolene Unsoeld, from the State of Washington.

STATEMENT OF HON. JOLENE UNSOELD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mrs. UNSOELD. Thank you, Mr. Chairman, and thank you for your leadership in pulling us together to review the legislation before this subcommittee.

When none of the Federal agencies would come to the Pacific Northwest—in fact when we now know that they were under direction from on high not to revise their plans—but when they would not come to the Pacific Northwest, it was you who came and stayed through every last witness, even when my State would not give you permission to smoke in the hearing room. [Laughter.]

I appreciate your desire to get all the proposals, including the industry-labor bill, on the table. I appreciate your dedication and the effort now in progress of the three standing committees.

I will not focus my short comments on any particular bill. I find all of them to contain elements that are important to resolving this complex and controversial issue, but none of them holds the ultimate answer.

The answer lies in breaking out of our traditional plodding, short-sighted approach to this issue on a species-by-species basis. We must get creative, incredibly creative, if we hope to develop a balanced plan to manage and protect our Federal lands. We can't simply divide the forest in two with half for clear cuts and slash burns and half for ancient forests. Let's mix it up.

There's no doubt in my mind that we need to protect some ecologically significant stands of old growth as part of riparian systems. What we do with the rest of the forest is where our creative juices and good old American ingenuity come into play.

I believe we should use Gus Kuehne's idea and put some of the forests on extended rotations of 200 plus years. We should use experimental forestry in other areas. We should make small cuts, odd-shaped cuts. We should harvest young stands to make them mimic old stands. We should rebuild our riparian systems to give them the strength to support diverse forest ecologies.

I'm excited about the possibilities. I am confident that should we adopt these creative strategies, we won't need the humongous reserves some people propose. We need to gather the best scientific minds in the United States to help us develop sound management plans for sustainable timber harvests and long-term ecosystem protection.

That's the goal, Mr. Chairman. A simple one. A long-term, sustainable timber supply and a healthy forest ecosystem. I am convinced we can do it. This hearing may help us take a huge leap in the right direction.

Thank you.

[The prepared statement of Mrs. Unsoeld appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you.

At this time, I would like to recognize the gentleman from Oregon, and member of the subcommittee, for an opening statement.

**OPENING STATEMENT OF HON. ROBERT F. (BOB) SMITH, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON**

Mr. SMITH. I thank the chairman very much, and especially for him being so courageous as to try to attack this problem from this subcommittee level.

We have listened over the years to many suggestions about resolution. The problem crept upon us incrementally because in the past the Congress never suspected, when we enacted the Endangered Species Act, that it would have this kind of broad coverage. In fact, it was an act to save whales, initially. Suddenly, it is involved in the possibility of shutting down a whole industry in the Pacific Northwest, maybe this Nation.

Then incrementally we passed land management control systems, and suddenly we have found ourselves in a crunch here because Congress has incrementally put ourselves in a box. Now, in case anybody wants to duck, you have to blame the administration, you have to blame the Forest Service and BLM for lousy management, and then of course you have to take on the Fish and Wildlife Service for what they have done. Then when that gets so that you're tired of it, then you take on the court system—which I have done, and which everybody has done.

But the facts are that Mr. DeFazio is right. The answer lies here, and I don't know whether there is an answer available here. But the facts are that this is a desperate situation. I came here in the early 1980's. Mr. Chairman, you will recall that we were in a depression in those days in this country, and we rushed to kick start the economy with a \$4.2 billion jobs program in public works, and we passed it. The economy, by the time we got it passed, was rolling along anyway.

I suggest, what is the difference between creating 100,000 jobs and saving 100,000 jobs? That's what we're about here. We're going to have to save 100,000 jobs in the Northwest, or our communities and our economy are going down the tubes and we're going to have to stand at the grave and watch the body being buried?

Slowly it is being buried, and still we have people—like the Vento bill and the Jontz bill—that would dig it a little deeper. We have to find some balance for people, as Mr. Swift has so articulately said to us. I'm not sure that there is room for people in this scenario. I'm not sure that there is room for people in some of the bills that are being proposed, which purpose is truly to eliminate all harvest from public lands of trees or grass.

Suddenly, this is a nationwide issue. When people from Members of Congress from Oregon, Arizona, New Mexico, and Utah come to me and say, "You've got the northern spotted owl, but we have the southern spotted owl. We want in on the negotiations." Then suddenly the gentleman from Louisiana, who introduced the labor/management bill, is involved in this thing because he knows that with 3 million acres of the 11 million acres set-aside for critical habitat is private lands.

The next thing you know, we're going to have all the private timber lands in America shut down for one thing or another, red cockaded woodpecker, the spotted owl, the yew tree—you name it. We'll find one, and we'll shut you down.

So this is a question of survival, Mr. Chairman, and I am delighted that you especially, who probably have no trees in Missouri with the exception of your parks downtown—[Laughter.]

Quite a few more than that, he says to me.

Mr. VOLKMER. The gentleman has gone a little bit too far. [Laughter.]

The gentleman from Missouri next to him can set him straight. We even have a national forest. It's not very big—about 1 million acres—but we have a national forest.

Mr. SMITH. I will retract that statement, Mr. Chairman. I was merely trying to point out that your interests go much beyond the State of Missouri to this Nation's health with respect to the production of timber. I personally am one who admires that of you. I know that you have balanced that issue and I look forward to these hearings.

Thank you.

[The prepared statement of Mr. Smith follows:]

STATEMENT OF CONGRESSMAN ROBERT F. (BOB) SMITH
 FOREST, FAMILY FARMS AND ENERGY SUBCOMMITTEE
 HEARING ON OLD GROWTH LEGISLATION
 1300 LONGWORTH HOB
 May 29-30

Mr. Chairman, I appreciate your willingness to hold a hearing on this important issue.

I am also pleased that you decided to go beyond the proposals by Mr. Vento and Mr. Jontz and include legislation that considers people to be at least as important as ancient forests.

We all know this is an important issue for the Pacific Northwest. But over the past few months, this issue has evolved. The crisis in the Northwest is no longer just a regional issue -- the nation is taking notice.

When my colleagues from Arizona, New Mexico and Utah tell me that they want to be a part of a old-growth solution, or when the gentleman from Louisiana, Mr. Huckabee introduces the Forests and Families Protection Act, you start to realize that the events in the Pacific Northwest have impacts for the entire nation.

People outside the Northwest want a solution because they are watching the pain being felt by the people in timber dependent communities. They know that it won't end with the Northern spotted owl, it will move to the Mexican spotted owl or the red cockaded woodpecker.

They would like to avoid the 11% unemployment rate that is projected for southern Oregon timber producing counties. I don't blame them. They have witnessed the recent decision by Judge Dwyer to block logging on 66,000 acres of timber-land in the Northwest, and have concluded that they don't want the courts managing their federal forest lands. Again, I don't blame them.

The nation depends on the Northwest for 30% of their wood products. On the other hand, the Northwest depends on federal timber to drive our economy. Local governments in 18 western Oregon counties depend on a share of receipts from federal timber sales on national forests and O&C lands for vital services.

In fact, five counties derive between 25 to 66 percent of their income from federal timber sales. The Vento and Jontz bills would create substantial reductions in public health services, law enforcement and educational services. The implementation of the Jack Ward Thomas Report alone could reduce local revenues by as much as 58%.

Mr. Chairman, only two of the proposals we will discuss have the balance that is needed for a long-term solution. Until last week my Community Stability Act was the only game in town when it came to putting people back in the environmental equation.

The Community Stability Act would, for the first time, provide a mandate for our land management agencies to consider the impact of its decisions on communities who depend upon the national forests. It would require that reductions in resources like timber would be gradually phased in -- so that workers from the 71 timber dependent communities in Oregon are not thrust into the unemployment line without warning.

Now we have the Forest and Families Protection Act, which also offers some stability and compassion, and is a reasonable approach to the forest management crisis in the Northwest. Aside from providing stability to the Northwest's timber program, this proposal has included a comprehensive worker assistance and economic adjustment measures. I cosponsored this bill because the people of the Northwest deserve this kind of certainty in their lives.

We must remember that a long-term solution shouldn't just be about ancient forest reserves or spotted owl protection -- it should also be about people.

Mr. Chairman, I want to commend you on your diligence in trying to forge a balanced solution to this crisis. Without balance, we will not have a proposal that will pass this Congress.

Thank you.

Mr. VOLKMER. Before we recognize the next witness, the chair recognizes the gentleman from Oregon, Mr. Kopetski, for a statement.

**OPENING STATEMENT OF HON. MICHAEL J. KOPETSKI, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON**

Mr. KOPETSKI. Thank you, Mr. Chairman.

I have a brief statement for the record.

Mr. Chairman, I want to commend you for holding this hearing and I also want to recognize the ranking minority member, Mr. Morrison, of this subcommittee for his diligent work in bringing the Pacific Northwest delegation together, as we work toward a solution to this problem.

I'm not going to read my entire statement, Mr. Chairman, I just want to note that these are critical hearings for the Pacific Northwest. I was in Estacada, Oregon yesterday, in a classroom with little fifth grade students, and you couldn't help but wonder what the future holds for these youngsters in a mill town in Oregon.

I hope that we all can work diligently together on those areas where we find consensus and agree. In those areas where we do disagree, we should look for a compromise so that we can ensure that our old-growth forests are protected and that we have a sustainable forestry program in the Pacific Northwest so critical to the Pacific Northwest economy.

Thank you, Mr. Chairman.

Mr. VOLKMER. Without objection, your prepared statement will appear in the record.

[The prepared statement of Mr. Kopetski follows:]

OPENING STATEMENT OF THE HONORABLE MIKE KOPETSKI
BEFORE THE
SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENERGY
COMMITTEE ON AGRICULTURE
HEARING ON LEGISLATION PERTAINING TO OLD GROWTH FOREST
MANAGEMENT

MAY 29, 1991 9:00 AM

.....

Mr. Chairman, I want to commend you for holding this hearing and thank the witnesses for being here today. I have a statement that I would like to submit for the record and a written statement from the Governor of the State of Oregon.

Mr. Chairman, this hearing is important not only for the future management practices of our public lands, but it is also important to the economic future of the Northwest. Over the past several weeks, culminating with Judge Dwyer's ruling last Thursday, we have seen more and more of the land available for timber harvest be put off limits.

We here in the Agriculture Committee, and our counter parts in the Interior Committee, are currently debating the issues that will effect the health and welfare of the Northwest over the next several decades.

In this debate, Mr. Chairman, we must maintain a balance between effective environmental protection and natural resource management and substantial economic viability of – the region, – the individual communities, – and most importantly, the timber workers and their families.

Mr. Chairman, the Northwest delegation has been working together since the very first days of this session to come to a consensus on these very difficult issues. We are making progress slowly. The participants in this hearing will provide valuable information, both policy implications and technical expertise, that we will use to craft legislation that is balanced and workable.

I commend you, Mr. Chairman, for your leadership role in bringing all the different parties to the table today. I also appreciate the tireless efforts of the Ranking Member of this Subcommittee, Sid Morrison, for bringing the Northwest delegations together to discuss these issues and move forward toward consensus over the past several months.

**OPENING STATEMENT OF THE HONORABLE MIKE KOPETSKI
MAY 29, 1991
PAGE 2**

Mr. Chairman, we will look at many different pieces of legislation today from many different perspectives. I urge all the participants in this debate to strengthen and promote areas where we are in agreement. And to work diligently and carefully to reach consensus where we disagree. All sides must work together to come up with a compromise.

There are many hurdles that we must cross to come up with a solution to the old growth forest management dilemma. Ironically, it is short-term certainty -- both for the environmentalists and the industry -- that proves to be the most difficult obstacle for us to maneuver around. I urge all participants to work together to come up with a solution we can all live with.

Mr. Chairman, once again, I commend you for holding this hearing. I look forward to hearing the testimony of the various witnesses.

Mr. VOLKMER. Our next witness is a new Member of the Congress, one who has inherited part of the problems through his election, and we look forward to his testimony and working with him as part of the northern California delegation, Hon. Frank Riggs, a Member of Congress from California.

STATEMENT OF HON. FRANK D. RIGGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. RIGGS. Good morning, Mr. Chairman, and thank you very much for the opportunity to be here today. I want to thank you and Mr. Morrison for recognizing that we who represent northern California, including my fine friend and colleague, Wally Herger, are very much concerned about this issue and welcome the opportunity to provide our input as well.

My predecessor was fond of saying that all of our constituents in northern California love redwood trees. The only problem is that half of them like them vertical, and the other half like them horizontal. I believe those tensions have really reached a boiling point. In my district I can cite for you—as I'm sure everyone else here could—many stories about encounters with constituents. Mine comes just a couple of weeks ago.

I had a chance encounter with a young man in his early thirties, an independent contractor and tree faller, who had worked for a number of coastal companies in my district, who in a polite way confronted me in a restaurant parking lot. He had been recently earning approximately \$35,000 a year, and out of that was providing for his wife and three children, including all the funds necessary to support them and pay for their various family-related expenses. This man was quite distraught and was not to be reconciled with talk of job retraining or potential assistance in relocating to another area. He very clearly felt that his long-term livelihood was at stake, and he was looking to his Representative in Congress to propose some viable solutions to the crisis on the north coast.

Just by way of background, the area that I represent contains 6 percent of California's land area, 22 percent of the timber land, and 25 percent of the growing stock volume, 78 percent of the resource area is classified as forest land, and of that timberland makes up 75 percent.

Of the timberland, we're talking about approximately 3.6 million acres. As you well know, of the preliminary recommendations for critical habitat set-aside for the long-term protection of the spotted owl species, approximately 3 million acres of that is in northern California in my district, Congressman Herger's district, and Congressman's Doolittle's district.

I have a statement that I would like to submit this morning, with unanimous consent. I might just very quickly summarize that and then make some specific recommendations for your consideration for possible incorporation in a final legislative product.

In my statement, I urge you and the subcommittee to consider the cumulative impacts of whatever actions or decisions you ultimately make. That is to say that right now in California there is a legislative package in the State legislature that would further tighten forestry regulations. I can't stress enough in terms of the

ultimate impact on the timber base, counterproductive timberland available to the industry in our part of the world, that you must try to consider the combined or cumulative impacts of those pending regulatory changes at the State level, and any changes that are made at the Federal level with respect to forest management practices.

There has been—without a question—overharvesting, at least my personal view, on the north coast, in part attributable to the actions of a couple of major companies, one of which incurred a significant debt, a junk-bond debt, in a merger. I'm referring to Maxim Corporation's acquisition of Pacific Lumber Company and the wake of that. The company had no alternative but to drastically increase their rate of timber harvest. I can almost directly trace back the controversy related to timber harvesting in my district to that particular event, that acquisition.

Other companies, I believe in the name of competition, followed suit, and I think that it is imperative that we return harvest levels to a sustainable level. But the flip side of that is that we absolutely have to consider attempting to supply long-term certainty to the industry. We have to find a balance and then maintain that equilibrium out into the future.

There is no question but that there is real value in protecting old-growth forests. It preserves biodiversity. There are certain portions of forests in my district that have significant environmental value. These are unentered, unlogged forests. I am specifically referring to the Headwaters Forest in southeast Humboldt County, which is the private property of Pacific Lumber Company. Pacific Lumber Company has shown a willingness to consider possibly selling or exchanging that property so that that forest might be preserved.

We tremendously need a vital and healthy timber industry, not just in my district, but to continue to meet America's need for food and fiber products. There is a direct linkage, as you know, between a viable timber industry, and the availability of affordable housing in this country. I, for one, am very worried about the continuing loss of jobs in the industrial sector. I don't think it's in the long-term welfare of this country to become completely a service and information-oriented economy. I would like to believe that we will have an industrial policy that will focus on preserving jobs in the manufacturing sector of the economy.

With specific regard to the various bills that you are entertaining, let me strongly urge that you consider designating any newly created old-growth reserves as first priority for critical habitat for the spotted owl. I know Mr. Jontz and Mr. Vento have given some consideration to that, but in light of the fact that we're very clearly at the Federal level now going to be faced with the task of preserving critical habitat for the owl, let me urge that the authors of those bills consider such a designation in the bill itself.

Second, with respect to timber harvest sales and timber harvest levels, as we all know, there has been a tremendous discrepancy between the two over the last few years. I commend Mr. Vento for striving to target certain minimum timber sales levels. But let me suggest that it would be a better way to go if we actually targeted harvest levels. I believe that that would be a step in the right di-

rection and would signal the industry that we truly are concerned about maintaining a consistent supply of wood to the industry.

Also, let me urge that you consider expanding upon the community stability aspects of any old-growth legislation that you ultimately act upon. I know, from my experience as a 5-year member of the State job training council in California, someone who at the State level was charged with the responsibility of carrying out the Job Training Partnership Act, that job training is not a panacea in my part of the world. In fact, in my part of the world—hearkening back to the experience of the Redwood National Park—for certain folks, job retraining is a dirty word.

Going back to that young man, that independent contractor and tree faller I referred to in my opening remarks, there are very few jobs that would offer him the opportunity to earn \$35,000 a year and to continue to provide for his family in my part of the world. So the job retraining is not a panacea. It cannot be viewed in a vacuum. It has to be accompanied by a sustained economic development job creation effort. I ask you to consider that in your review of this legislation.

Last, there is one other aspect that has been brought to my attention. I mentioned at the beginning that so much of our productive timberland remains in private ownership. I would like to suggest that perhaps you consider providing—with all due respect for State and local law—providing incentives for small landowners to begin managing and harvesting their standing timber.

Only 25 percent of our timberlands in northern California are in public ownership. Of the remaining timberlands in private hands, more than half are owned by farmers and miscellaneous interests, according to the Redwood Conservation Council. Between 36 percent and 38 percent of California's timberlands are owned by small landowners defined as owners of land under 5,000 acres with an average ownership of about 160 acres.

Yet in the last decade, harvests from nonindustrial forests have accounted for only 12.4 percent of the cutting in the State. If we are to provide a stable wood supply—and I think that is a common goal of all the witnesses here this morning—we need to increase the rate of timber harvest on private land.

Why isn't more logging occurring on those lands? Well, for some landowners, logging—because of the continuing controversy in our part of the world—has taken on a bad name. Some of them are simply sitting on their property as speculation. Others enjoy the aesthetic values of continuing to own what amounts to their own private park. Tough regulatory requirements have made it too expensive for small landowners to come up with the cash to pay for the planning process, especially when the market fluctuates so much.

In virtually every single instance of timber harvesting in California today, a comprehensive timber harvest plan is required, pursuant to State law, and sometimes that is simply too much for private property owners to cope with. Also, industrial timber companies are undervaluing the timber they buy from small landowners, again contributing to the holding of private timberland for speculative purposes.

But given the shortage of merchantable timber, logging companies can be expected to pay more reasonable prices for the timber. So that is one problem that I guess can be left up to the free market.

I would simply urge you to consider putting new funds into the Federal Agricultural Conservation Program to expand conservation programs and outreach to private property owners. A program could be established to provide low-interest loans to small landowners so that they can pay the huge up-front costs of the planting and harvesting process, and then pay back the loans when their timber is sold. A present program that provides loans for replanting and conservation work needs to be adequately funded.

Small landowners need to be convinced that it is in their interest to use environmentally sound principles to log and maintain their land. Conservation advisors can help guide landowners through the timber harvest process and the planning process, and can help develop long-term management plans to ensure the sustainability of timberlands.

I would urge you, again, to give consideration as to what incentives can be built into legislation to encourage accelerated harvesting on private timberlands.

Thank you very much for this opportunity, Mr. Chairman.

[The prepared statement of Mr. Riggs appears at the conclusion of the hearing.]

Mr. VOLKMER. At this time, I recognize our final witness, who is also become involved in this in the State of Washington, the Honorable Congressman McDermott, and who has taken part in the negotiations in trying to resolve the issue also.

Jim, it's good to see you.

STATEMENT OF HON. JIM McDERMOTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. McDERMOTT. Thank you, Mr. Chairman. I frankly don't think anyone in the Pacific Northwest can stay uninvolved in this issue. [Laughter.]

I want to thank you for the opportunity to address the subcommittee on the issue of the management of national forests in the Pacific Northwest. It is my sincere hope that your work here, together with the efforts of Congressman Vento and Congressman Studds, will result in a credible and long-term resolution to this dispute that is tearing the Pacific Northwest apart.

We are facing these difficult decisions today not because of an owl, and not because of environmental extremism. We are here today because the forests of the Pacific Northwest have been badly mismanaged. I would ask unanimous consent to enter into the record an editorial from the Seattle Times called, "Politicians and Loggers Should Listen and Learn". It lays out the case of the mismanagement.

Only a dramatic change in the way Federal agencies oversee our public forests will assure that Congress will not face these same decisions again in the next few years. Any message to the contrary sells false hopes and impairs our ability to find a solution.

The administration has been willing to systematically violate the law, and to lose one court decision after another on this issue, rather than help find the solutions. This record has made our job nearly impossible. Congress must be able to rely on the judgment of the professionals in the land management agencies. Yet the decisions made by the heads of these same agencies have left them wholly discredited.

Congress also must share responsibility for the problems we now face. In the past, Congress has set unrealistic timber harvest levels and interfered with the judicial process. We must devise a process where timber harvest levels are built from the ground up and are based on what the forests can sustain.

I believe legislation will have the greatest chance of succeeding if it adheres to the following principles: First, the more final decisions Congress makes about the management of the forests, the greater certainty we will provide for the affected communities and the ecosystem; second, we must focus on the needs of the Pacific Northwest. Because any attempts to resolve conflicts in other regions of the country will only confuse and delay the critical decisions about the Pacific Northwest; and finally, the less effort Congress expends on rewriting existing laws, the greater chance we will have of enacting successful legislation. These questions must be decided separately from our efforts to help the Pacific Northwest.

Mr. Chairman, what the Pacific Northwest needs more than anything else is responsible leadership. I thank you and the subcommittee for your interest and your involvement. I look forward to participating in any thoughtful process that attempts to reach a balanced solution.

Thank you.

[The prepared statement of Mr. McDermott appears at the conclusion of the hearing.]

Mr. VOLKMER. I thank all the witnesses for testifying this morning and look forward to working with them toward a solution.

I have no questions, does any member of the subcommittee have any questions of any of their colleagues?

The gentleman from Indiana.

Mr. JONTZ. I have one very brief question.

Several of the witnesses have focused on the need for dealing with the economic transition in the Pacific Northwest, and I think that's extraordinarily important. Later on today, Dr. Beuter will speak on behalf of USDA and state the administration's position that displaced workers are adequately covered under the provisions of title 3 of JTPA. Does anybody on this panel believe that?

Mr. VOLKMER. Does anybody want to respond?

Mr. SWIFT. I would simply like to add that this administration is also trying to do away with the Trade Adjustment Act, which is a law designed to assist communities that run into some of the same kinds of problems we're having with timber because of trade policy. So this is not an administration that is sympathetic with the policy that I think we ought to adopt that the Government has some responsibility to assist those who are economically damaged because of a policy that that Government makes.

Mr. McDERMOTT. I would add that we on the Subcommittee on Human Resources in the Ways and Means Committee have been working on the unemployment benefits and have been trying to figure out a way to make this new kind of unemployment more easily dealt with. The old unemployment that was cyclical—certainly the forest products industry was a cyclical industry. It always has been one. But these jobs that are now ending are a new kind of unemployment, and we've had absolutely no help out of the administration in terms of their willingness to work with us to provide some kind of reasonable solution for these people.

Mr. VENTO. Mr. Chairman, I think the world of work today is far different than what it was even 10 years ago. I think that in our policies and our actions we surely should recognize that. When we have people with high levels of skills—whether they're in computers, timber industry, or other types of workers—they need to have a transitional assistance from one job in the world of work to another.

Of course, that's what we're trying to do. Obviously if we can in any way reduce the impact of that through enhancement of forestry practices where those people in those communities can in fact be provided employment opportunities to reduce the impact, that is desirable. That's why we propound the ideas in the legislation that we have before you.

Clearly, this has to be part of what we're doing in these areas. These communities are isolated, and in some ways—no matter how we strive to do so—we clearly are going to have a profound affect on these communities. I don't think we can depend on a generalized program that does not deal with the depth of the problem in these areas to address these problems.

I hope that we will respond with some changes, and that means working with the Education, Labor, and Ways and Means Committees.

Mr. RIGGS. Mr. Chairman.

Mr. VOLKMER. Yes.

Mr. RIGGS. May I respond to that question very quickly? I think it's a very pertinent question that Mr. Jontz asked.

We have had some very dramatic successes with the Job Training Partnership Act program in California. Jim, you should look very carefully at the closure by Simpson Lumber Company of their mills in Klamath and Arcata and the results from that program. The State job training council in California appropriated \$100,000, which was matched by the company, and the results from that program are very encouraging.

The problem is that with the Job Training Partnership Act, there isn't enough money or effort devoted to job creation with the act. As you well know, 5 percent moneys, EGA money, employment generating activity moneys, have been in jeopardy for years. I think the administration has taken the position that they would like to phase out those 5 percent moneys. That would be a good question to ask Dr. Beuter later today.

So you have to have the two. You have to have the retraining effort, but you also have to have the job creation effort. The latest efforts in our neck of the woods have focused on the fledgling hardwoods industry and the possibility of creating a small business in-

cubator for hardwood companies and hardwood products. I think that is somewhat promising.

I don't think that the importance and the contribution that the Job Training Partnership Act and its related programs should be ruled out of hand. They should, however, be augmented.

Mrs. UNSOELD. Mr. Chairman, I would like to add a comment.

There are current programs that are available, including under the State and Private Forestry Program of the U.S. Forest Service. Some of that recommendation was squelched last year by the administration. This year, in an attempt to develop some of those concepts that would not only provide jobs now in the forests, but would provide forest improvement and stream enhancement on both public lands and nonindustrial private lands, it has been almost impossible to get decent information because of the gag rule that is being imposed on Forest Service personnel.

Mr. JONTZ. Mr. Chairman, I have no further questions. I just want to state for the record that I agree with the views that each of the members has expressed in terms of this problem and want to state my interest in working with these members and others in providing a proper economic transition package.

I thank the chairman.

Mr. VOLKMER. I would like to interject a thought in here that I have had ever since we have had that field hearing, Jolene, out in Olympia. We had some testimony there from some people. What concerns me a little bit about using the Job Training Partnership Act in some of these cases—and Al I think you have some of these areas in your district that testified—the community is built up around the timber industry. When the timber industry goes down, there is nothing left in the community. You might still have grocery store, or a gas station, or something like that, but those are also from that timber industry.

When that supply of timber for the sawmills goes down, what do you do with all those people? You can't just give them training to be computer experts or something because there are no computers around any more, because the computer was used in the sawmill in this town. My question is: What do you do with those people? Do we devise a program to lift those people bodily up and move them some place?

Mr. SWIFT. Mr. Chairman, my belief is that—and I think you have described accurately many communities throughout the Pacific Northwest. I think an awful lot of people that are not from the Pacific Northwest think of the Weyerhaeuser Company as a typical company. It is typical of the large private ones, but is wholly atypical of what most of us talk about when we talk about a timber community.

These are little communities with usually no big single employer, but a whole series of little employers. I was talking with a Member once, and he said, "I'm not after your workers. I'm after your industry." Well, in the Pacific Northwest, the workers are the industry when it comes to national forests.

So these communities need not only something immediately for the people, but the communities need to be able to transition to a different economic base. That's not as simple a problem. That takes longer. There are some things that can be done by value-added to

the timber that is cut and processed, and we need to do more of those. Sid Morrison has a law on the books that is going to be helpful, but I think it needs to be augmented as well. So it is really finding a new economic base for a whole community rather than just help some people learn some new job skills.

Mr. VOLKMER. But that's not just one community.

Mr. SWIFT. No, those are hundreds of communities, and they tend to be small. They tend to be the kind of communities that are least likely to have resources of their own to be able to help themselves. These are people that don't have any boots, and you're asking them to use the bootstraps.

Mr. VOLKMER. And how much money is it going to cost to do all this? I don't think anybody has any idea right now.

Mr. SWIFT. I suspect more than we're going to be able to find.

Mr. VOLKMER. That brings me back to the statement made by one of you earlier—I think it was the gentleman from Washington that has just spoken—that we don't forget those people when we take care of the spotted owl, the old growth, the trees, and everything else. It looks like to me that we're going to forget them because we're not going to be able to have the money to do what we should do in regard to those people.

Mr. SWIFT. I think one of the things that we're going to have to come to grips with as a society and as a Congress is that there are a lot of good things that the Government may want to do that has some pretty bad impact. I, for example, have a wild and scenic river in my district, and it has not been properly administered by the Forest Service. We find that we haven't given them enough money. I think we tend to think of wild and scenic rivers as free. All you can do is designate and good things happen.

It turns out that these things need to be administered. The Forest Service is proposing 450 additional miles of wild and scenic river and we don't give them the money to deal with what they have, which is 20 miles or so.

I remember that I was very involved with the Clean Air Act. You can't deal with acid rain without doing harm to high sulphur coal miners. Bob Wise did something that couldn't happen in the other body and he got some extended unemployment compensation. What an inadequate response. I wholeheartedly supported what we had to do in order to deal with the acid rain problem, but I would have voted for a lot more assistance to those communities that are just devastated by that Federal policy.

We have to understand that doing good often costs a lot of money. If we are unwilling to do that, then we are faced with a situation where we will just turn our backs on people in order to achieve some good over here.

That is a terrible dilemma, I understand, but I don't think it's a dilemma that can be answered by saying that the people will just have to sacrifice for this greater good. What government in this country is about is people.

Mr. VOLKMER. The gentleman from Washington has given us a lead last year of devising legislation, my colleague Mr. Morrison. I think we need to relook at what he has done and see if it goes far enough and see what others we may have to do.

Mr. SWIFT. Mr. Chairman, it is a marvelous model by which to proceed.

Mr. VOLKMER. The gentleman from Oregon.

Mr. SMITH. I thank the chairman for yielding.

I think we really have put our finger on the problem. In Oregon, there are 71 communities we have identified as timber-dependent communities. They are all under 30,000 people. They all have as the highest employment, dependency on the timber industry. That in turn provides the wheels and the money for the school system, and the downtown drugstore and the grocery store, and if there is no timber to harvest, there will be no community. So that means, What happens to the value of their homes when there is no one left that wants to buy them for any purpose because everybody is evacuating?

We have a Kurdish problem on our hands.

Mr. VOLKMER. The gentleman from Louisiana.

Mr. HUCKABY. Thank you, Mr. Chairman.

I certainly agree with the premise that has been espoused by several members here, including the chairman, that this is a situation that is desperately crying out for congressional action and a congressional solution, as the gentleman from Minnesota, Mr. Vento, has said in his testimony.

I understand that there was additional court action that occurred this last week that will lead to further significant reductions in employment in the Pacific Northwest. I would like to ask—it's my understanding that as of today, industry and labor estimates that they have lost some 7,000 to 10,000 direct jobs as a result of this controversy, and the estimates are that it could go to 100,000. Does anyone have any feel for the impact as a result of the court decision this past week?

Mr. McDERMOTT. In the editorial that I entered into the record, the judge says that the only credible—and I emphasize the word credible—employment impact is 30,000 jobs lost in the industry apart from the spotted owl. I'm going to go downstairs in a few minutes to the Banking Committee where they talk about bailing out the banking system. There are a whole lot of factors that have led to the reduction of employment in the Pacific Northwest, as the chairman pointed out, the computerizing of the computerizing of the mills.

But the judge estimated that the credible loss was 30,000 because of this whole controversy of growth.

Mr. JONTZ. Would the gentleman yield?

Mr. SMITH. I yield to the gentleman.

Mr. JONTZ. I appreciate the gentleman's diligence, but let me read the specific provision from the Dwyer decision because what Judge Dwyer says about 30,000 jobs does not relate to spotted owls, but to other causes, which the gentleman from Washington is very well aware of.

This is a quote from the Dwyer decision. "Job losses in the wood products industry will continue regardless of whether the northern spotted owl is protected. A credible estimate is that over the next 20 years more than 30,000 jobs will be lost through worker productivity increases alone."

Mr. SMITH. Regaining my time, then, one can play with numbers in many different ways. It is extraordinarily difficult to say that due to the current recession—perhaps it could be classified as depression in the building industry in the United States. There is certainly a significant reduction.

But if one could extrapolate and say, "Well, I was looking at 100,000 jobs, and 30,000 is a result of that," then there are still 70,000 impacted by the spotted owl. That's probably not a rational number either, but my point is that no one really knows.

I certainly agree with the remarks that Mr. Swift made here, that this is a government of the people. I think we need to make rational decisions. There are several competing bills on the table now, and perhaps others still to be introduced. The bottom line is, How many board feet of timber are we going to cut, and how much preservation—how many acres will be set aside—to what degree of preservation of the habitat for the spotted owl?

I would urge the members of the committee, as we work through this process and hear the testimony from the witnesses, to be cognizant of the fact that in making these decisions perhaps maybe we should begin to tilt just a little bit toward the human factor of the human beings that are involved.

I thank the chairman.

Mr. VOLKMER. I thank the gentleman.

Are there any further questions of the witnesses?

Mr. VENTO. Mr. Chairman, I have just a comment on Judge Dwyer's decision.

As I understand it, the fact that new sales did not affect the existing sales that were outstanding—there is a substantial amount of timber under contract already that is available. Another decision, though, Judge Frye's decision, will affect the timber that has been sold. So that could have a pretty dramatic affect in terms of cutting down everything west on the west side.

I think it is important that we keep these suits in mind, not to argue. As I said, I think the Forest Service, BLM, and the administration basically gambled by not coming forward with solutions on this. Now we face the prospect of serious problems.

Mr. VOLKMER. The gentleman from Washington.

Mr. MORRISON. Mr. Chairman, while we have Chairman Vento here, I wanted to ask a question that I think is significant as we look for answers in this whole issue area.

Bruce, yours is the most comprehensive bill to date, although I guess Mr. Huckaby's new introduction covers a variety of different subjects related to the Pacific Northwest forests. You include in your proposal a harvest level, in fact a guaranteed harvest level. Is that achievable without modifying at least temporarily the Endangered Species Act?

Mr. VENTO. That's an open question, and I think a good one. The logic in this bill is that we tried, at least prior to its introduction, to integrate the response to the habitat conservation area to not override the land management plans of both of the agencies to deal with the other aspects that would avoid the complications of overriding specific plans, which would bring us into a lawsuit-type of issue.

Clearly, of course, the problems the Forest Service are having now is that they are saying that the forest management plan is inadequate to deal with that. So you really have to decide to override. If you want to solve that problem, there are a number of ways that you can go about doing that. We still have to integrate that with the new conservation habitat area that the Fish and Wildlife Service put out. That has to be considered, which includes both private and public lands—State lands as well.

So there are other aspects that we have to consider. I think it's a better avenue than providing what we all call sufficiency language. I prefer to stay away from that because—sufficiency from what? You're going to have to say, notwithstanding NEPA, the Clean Water Act—you would go down the whole laundry list of laws that you would have to override, and I simply don't believe that 48 States are subject to the laws and two of them shouldn't be. I think that's a bad practice to proceed with because then every time we have a problem we would be setting up a precedent to waive the Endangered Species Act or other types of laws that I think by and large are workable.

I think the reasons they haven't worked here are on a different basis, but in terms of the number, Congressman Morrison, we are getting different feedback on that based on a more accurate assessment. I think our numbers are about 10 percent.

The number I had that I thought was achievable is higher in the bill than actually would be attainable. I think you can have a number as a goal even this year, and the fact is that you're not cutting very much. I think you're going to cut a lot less if we don't act with some legislative solution that addresses some of these basic factors in the decisionmaking process.

Mr. MORRISON. We appreciate your help, Bruce, in trying to find an answer from this whole thing. What, of course, is vital to a number of us that represent these areas is that whatever number we finally reach that it be sustainable and that we can actually get people into the woods to harvest that level each year for the sake of jobs in those areas.

Mr. VENTO. A lot of people just want to avoid the number. As I said before, the environmentalists and the industry and labor all want to avoid using numbers, so they have avoided the debate of the number, but in terms of trying to have some target, I think it might be advisable to stick with it. I understand the limitations of it, but I think if we want to provide some stability and certainty, that's one way we could do it.

Historically, I would be critical of the Appropriations Committee and others that have used a number, but this is only for an interim period. Then we would hopefully let the professional management practices of the Forest Service and land managers take over from there with the proper guidance.

Mr. MORRISON. We appreciate your support.

Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from Oregon.

Mr. KOPETSKI. Thank you, Mr. Chairman.

Mr. Vento, I'm a little bit puzzled by some of your comments. Do you recognize a difference, therefore, between reaching for some

sort of long-term solution and what we do in the next year or two in terms of harvesting in the Pacific Northwest?

Mr. VENTO. Yes. The legislation I proposed, Congressman, has an interim plan for 3 years in terms of trying to provide an ensured level of harvest in the areas affected.

Mr. KOPETSKI. In order to obtain any kind of harvest in the next few years, it seems to me that we necessarily, because of the court decisions, have to look at some sort of sufficiency language for this transitional period.

Mr. VENTO. I would hope to avoid sufficiency language. The legislation I have introduced does not have sufficiency language. I think that is down the road a ways before we—you are obviously convinced that it's necessary.

Mr. KOPETSKI. Actually, I'm not convinced, Mr. Vento. I'm curious how we have a harvest without doing that. We can put any number on the wall and say that we are going to harvest this amount of timber this year, but that is just the Congress doing it. Somebody is going to come into court and say that they can't do it, unless the Congress provides some sort of sufficiency language. We're going to bump up against this laundry list of acts that are out there. I don't know how we get around that without sufficiency language.

Mr. VENTO. I think the effort we have here, as I have indicated—I won't repeat my answer to Congressman Morrison, but I think that in that lies the solution, or 90 percent of it, to subscribe to the management plans that exist—that have never been implemented, incidentally because of the appeal process that has taken place.

Mr. KOPETSKI. And you believe, therefore, if I understand your argument—and that's what I'm trying to do is to understand this argument—that there is enough timber out there that could be placed in sales that would not be contested that could be sold and harvested within the next 3 years.

Mr. VENTO. Harvested is the key here that I think we might want to focus on in terms of the economic impact because, as I understand it, although traditionally the backlog of sold but unharvested timber is about 6 billion board feet, or more than that. But in any case, you can look at that. Although it's historically lower than it has been, there is some capacity to utilize that and to integrate that with whatever the new sales are so that you can minimize the economic impact providing some degree of assurance in terms of a harvest supply with regard to that and trying to respond to the challenges that exist legislatively.

I admit that it's very difficult for us to do. We don't work on a full-time basis as Fish and Wildlife Service managers dealing with the Endangered Species Act. I think there's enough information so that we can set a mark that is going to be pretty close to accurate so that it does meet the legal requirements and that a court will permit most of that harvest to go forward.

I don't think that it's a—the problem with sufficiency is that it throws a blanket over any of the actions that take place, and many of those can be harmful. I think that's one of the reasons I wanted to avoid that. I think we should try to meet the challenge of the law in terms of putting a policy in place that does not try to do violence with the laws that we have.

Mr. KOPETSKI. I appreciate what you're saying, Mr. Vento, and I will be searching for the magical way that we can do this.

Mr. VENTO. We have to be confident enough in the law or the policy that we establish, Mr. Chairman.

Mrs. UNSOELD. I would like to take a stab at that question also.

Given that where we are has certainly been partially contributed to by management practices both on Federal, State, and private lands, if we continue the current management practices, we probably have to lock up, if you will, much larger areas. If we intensively change our management practices—either rotation cycle, new forestry—if we start looking at it differently and away from a species by species basis, I believe that the amount that needs to be set aside for the protection can be scientifically reduced. That ultimately I feel is our objective.

Mr. KOPETSKI. Mr. Chairman, if I may continue, Representative Unsoeld, I think that speaks more to a longer-term solution of the issue. What I'm concerned about is this year and next year.

Mrs. UNSOELD. I believe that it can also be applied with some stricter guidelines because we won't have as much science going into it and we have to monitor it. That theory can also be applied to 3-year or short-term period also.

Mr. KOPETSKI. Thank you.

Thank you, Mr. Chairman.

Mr. VENTO. Mr. Chairman, just a figure on the information I have on the timber sales under contract is like 7.2 billion board feet or 7.3 billion board feet under contract, which is historically—I think the land managers will tell you—less than what it has been. That's under contract right now. That is sold. Of course you're concerned about what sales you'll have. I think between what is sold and what is proposed to be sold, in that interim period you can deal with the viability of the industry and you would probably like to have some advanced and under contract, but at least that gives us some room to operate.

Mr. VOLKMER. You're saying that 7.2 billion board feet—

Mr. VENTO. It's 7.2 billion or 7.3. We can get more accurate numbers.

Mr. VOLKMER. That's national forest and BLM?

Mr. VENTO. Yes.

Mr. VOLKMER. But no private land?

Mr. VENTO. Under contract.

Mr. VOLKMER. No private land?

Mr. VENTO. That's correct.

Mr. MORRISON. Mr. Chairman, if you will yield just momentarily, I think later on as we get through the testimony of the day, we will probably shoot holes in that as far as actually being available for harvest.

Mr. VOLKMER. We plan to pursue this because Judge Dwyer also raises the question as to what is available.

Before we conclude—and I know I have gone a half hour past what I wanted for this panel, but I think it's something that is necessary—the administration and Dr. Beuter's testimony brings up an interesting question that I really haven't looked at in this regard. I don't know if you have or not, Bruce. I don't know the answer yet. I think it's something that we will have to take up

with the members of the subcommittee. Mr. Panetta is on the subcommittee, and he also happens to be the chairman of the Budget Committee.

On page 15 of Dr. Beuter's testimony, both H.R. 1590 and H.R. 842 would increase direct spending and decrease revenues and are therefore subject to the pay-as-you-go requirement of the Omnibus Reconciliation Act of 1990, which is the last one we had. Do you agree or disagree with that?

Mr. VENTO. I disagree because the conclusion, of course, is that under their planned harvest of 3.6 billion board feet that they are actually going to be able to harvest all that and that they are going to be able to proceed in the next 3-, 4-, or 5-year cycle—whatever the number is that they are using as a base number—the assumption is that the existing policy or current policy would permit them to harvest that. Of course, we know that the fact is that the court is quickly curtailing much of the sales program and some of the harvest program, as Congressman Morrison has indicated, in response to my timber sales under contract response, that in fact much of that is being harvested.

I would remind the chairman and the members that part of that is due to the fact that we more generously share the timber receipts that are harvested with the counties, and probably at lower numbers of harvest than what is predicted by the administration, and of course that we have in there some of the job training—\$150 million in the job training programs for the next 5 years. That is the basis for the savings.

I think that it is illusionary dollars that they are talking about. They are really not going to be available unless we set a path for a different policy. We need a different policy path than what exists. So this I think—to say the least—is misleading. I think it's an argument that has no basis in terms of what we're working on.

Mr. VOLKMER. Have you submitted your bill to CBO for examination in this area?

Mr. VENTO. No, I have not, but obviously you have to give them a current spending or current path, and we could do that. I have no objection to doing that. I think it depends upon what the assumptions are that you tell them in fact to put forward. If you tell them that you're going to have a harvest, under a different scenario, of 4 billion board feet, you get a different answer back than what you would attain.

So there are some understandable commitments made in the bill that are necessary and I think justified. I am not apologizing for those dollars in terms of enhanced county sharing of timber receipts and/or the job training program.

Mr. VOLKMER. I have no further questions.

I want to thank Chairman Vento and the other members of this panel and our colleagues for their testimony today. I appreciate it.

Our next panel is Mr. John Beuter, Deputy Assistant Secretary, U.S. Department of Agriculture, accompanied by Dale Robertson, Chief of the National Forest Service; Mr. John Turner, Director of the Fish and Wildlife Service, U.S. Department of the Interior; and Mr. Cy Jamison, Director of the Bureau of Land Management, U.S. Department of the Interior.

Gentlemen, your statements will be made a part of the record. You may either review that statement in full—if you wish to do so, that's fine with me. We have all day here. If we go tonight, we go tonight—or you may summarize, however you so desire.

We will begin with Secretary Beuter. We appreciate your being here today, and I look forward to your testimony. I reviewed some of it, and I'm sure that before the day is over, we will have a lot of questions.

STATEMENT OF JOHN H. BEUTER, DEPUTY ASSISTANT SECRETARY, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY DALE ROBERTSON, CHIEF, FOREST SERVICE

Mr. BEUTER. Thank you, Mr. Chairman and members of the subcommittee. I appreciate the opportunity to appear here today to comment on the four bills having to do with the protection and management of old-growth forests and their relationship to timber-dependent families and communities in the Pacific Northwest. I am accompanied today by Dale Robertson, Chief of the Forest Service.

I would like to make a brief statement and ask that my written testimony, which contains detailed comments about the bills, be made a part of the record.

The focus of this hearing is on old growth primarily, and by extension, because of its relationship to old growth, the conservation of northern spotted owls, a species listed as threatened under the Endangered Species Act. During questioning following our April 25, 1991 testimony on H.R. 842 and H.R. 1590 before the House Interior Subcommittee on National Parks and Insular Affairs, the administration's commitment to finding a solution to these issues was questioned.

We believe the administration has acted responsibly on this difficult issue. The record reflects that the administration met its legal obligation under the Endangered Species Act by listing the northern spotted owl as a threatened species. The Fish and Wildlife Service then worked expeditiously to assure that land management agencies could meet their consultation obligations under the Endangered Species Act to enable timber sales to go forward.

At the same time, the administration created a spotted owl task force, whose recommendations formed the basis for congressionally authorized harvest levels while mitigating the overall impact on job losses. Also, the administration supported efforts to restrict offshore exports of unprocessed timber from Federal and State lands, and the President signed this legislation to protect jobs in the Pacific Northwest forest products industry last year.

Furthermore, Secretary Lujan has appointed a spotted owl recovery team that is working to develop a long-term plan to ensure survival of the spotted owl while also minimizing, to the extent possible, social and economic impacts from owl protection activities.

This issue is complicated further by the overlay of legislative requirements for managing Federal forest lands. Management plans for the national forests must be developed in compliance with the National Environmental Policy Act, NEPA, its requirements to assess and report on environmental consequences and the legal and regulatory requirements for interdisciplinary development of alter-

natives and public involvement under the National Forest Management Act. When a species is listed under the Endangered Species Act, such as the northern spotted owl, the process is overlaid with ESA requirements.

We wish to emphasize the difficulty of simultaneously complying with this overlay of legislation, and cite the valiant effort of the Forest Service to do so. Despite their best efforts, the system is bogged down by appeals and litigation, much of which has more to do with process than substance. Even though it may be desirable and technically possible to simultaneously comply with all the acts, it is often not feasible to do so in a timely manner.

At present, the fiscal year 1991 Timber Sale Program in Oregon and Washington is enjoined on procedural matters related to a requirement for concurrent compliance with NEPA, NFMA, and ESA in ensuring the viability of the northern spotted owl. The result is costly duplication of effort at best, and an impasse in the timely development and implementation of forest plans at worst. Any attempt by the Forest Service to assure species viability under NEPA and NFMA without a completed recovery plan under ESA is sure to be appealed or litigated under ESA. In the meantime, fiscal year 1991 timber sales that have successfully passed consultation with the U.S. Fish and Wildlife Service are enjoined, putting at risk thousands of jobs and the well-being of rural communities throughout the Pacific Northwest.

In this context, we would like to acknowledge the recent efforts by this subcommittee to work out a multiyear solution to the difficult and complex issues involved in the management and protection of old-growth forests. We would like to emphasize the administration's desire to achieve, with the Congress, a balanced, comprehensive solution that provides an appropriate mix of protection and management for forest ecosystems in the Pacific Northwest.

None of the four bills being considered by this subcommittee today achieves a balanced, comprehensive solution on its own. However, they all include sections that should be in legislation that provides the desired balance between ecosystem protection and forest management.

We wish to emphasize that the administration is opposed to making significant land use allocations or management decisions outside of the comprehensive forest planning framework directed by NEPA and NFMA. Legislation should acknowledge the forest planning process as the means for evaluating old-growth reserve proposals, selecting reserve areas, and specifying the standards and guidelines for managing the reserves and other old-growth areas.

We wish to emphasize that the old-growth issue is not a 0/1 issue of save it or cut it. Legislation should recognize that there are at least three categories into which existing old growth might be classified.

The first category is old-growth reserves where timber harvesting is excluded. The second category includes old-growth areas in which timber harvesting may be permitted under special guidelines primarily to maintain forest health and to rehabilitate areas damaged by catastrophic events such as fire, insects, disease, or wind. In general, the goal would be to allow management that is compatible with maintaining old-growth composition and structure indefi-

nately. The third category includes old-growth areas that would be available for timber harvest within the standards and guidelines of the forest planning process. These lands would be available to meet planning goals for timber and forest resources.

Legislation should provide a 3- to 5-year interim period during which existing old growth under Forest Service administration can be studied and evaluated to determine how it should be classified among these three categories and during which the spotted owl recovery plan will be completed, and also during which all the information can be brought together with site-specific knowledge in the forest planning process to best determine the resource allocations on national forests.

Legislation should provide a predictable timber volume program during the interim period, with volume levels set as high as possible within the guidelines of existing forest plans, without compromising the opportunities for the old-growth evaluation.

Finally, we encourage continued support of Forest Service research into the nature of old-growth ecosystems and the opportunities for managing and perpetuating them.

In summary, Mr. Chairman and members of the committee, the development of an old-growth reserve system should not begin with a presumption that a specified number of acres need to be reserved without management. There are management options, and some degree of management will be necessary to perpetuate old-growth ecosystems. Time is needed to study and evaluate the existing old-growth prior to deciding on the needs for old-growth reserves.

The principles discussed in this testimony are intended to emphasize that there is more to the old-growth question than merely a decision to reserve it or harvest it. There is a need to recognize the variety of functions provided by old growth, and the spectrum of management opportunities available to provide for both biological and human needs, now and in the future.

It is important to emphasize that decisions about old growth and timber harvesting should be made with the context of the existing forest planning process, using site specific information, interdisciplinary analysis, and public involvement to best determine the resource allocations for each national forest.

This concludes my statement. Dale and I will be happy to answer any questions the committee may have.

[The prepared statement of Mr. Beuter appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you very much, John.

Mr. Turner.

STATEMENT OF JOHN F. TURNER, DIRECTOR, FISH AND WILDLIFE SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Mr. TURNER. Mr. Chairman, I have a prepared statement I would like to submit for the record.

I have some general comments on the significance of the challenge that we have faced in the Fish and Wildlife Service, that has faced the administration in serving owls and balancing with the important commodity needs of the Pacific Northwest. It has been extremely complex, frustrating, and tough.

It is made especially complicated by some of the following general factors. First of all, this administration has inherited some previous actions, which in my opinion greatly narrowed our options, looking at the overall problem. Second, Mr. Chairman, there have been other trends and changes—as has been pointed out this morning—beyond the mandate to conserve owls. Third, the administration has had to work with a network of different laws that have not been conflicting, but certainly pose different problems for land management. Fourth, there definitely have been events beyond our control, beyond the ability of the administration to address, which is court action. Fifth, there has been an unprecedented quantity of diverse opinions on the issue.

Mr. Chairman, within these general constraints, it is my opinion that this administration has worked diligently and conscientiously to address the array of conflicting interests and values in the Pacific Northwest. In hindsight, some can criticize the merit and timeliness of our action, but I reject criticisms of paralysis, malintent, or inaction.

In making this appeal, I simply hope that people recognize our work and not question the intent to solve some very serious problems of not only conserving owls, but providing some certainty in commodity resources to the communities of the Pacific Northwest.

Mr. Chairman, for just a brief summary some of these steps that we have taken in the last 12 months include the appointment and report of the ISC committee, a rather remarkable scientific effort to come up with a strategy and building on that science and adding additional data, the most comprehensive listing decision in the history of the Fish and Wildlife Service, that listed the northern spotted owl as threatened.

We had available consultation guidelines immediately on a listing so the industry and the resource agencies could proceed with some certainty, which effort usually takes 1 year. As was pointed out, we have consulted on hundreds of sales, and have a reasonably good track record in avoiding serious disruptions to the industry.

We have proposed, upon listing, incidental take guidelines, another effort that could take 1 year, but we did it immediately to give a heads-up and reduce the liability to private landowners. The Secretary appointed a joint task force that assisted the Congress in suggested timber levels. The BLM proposed an interim strategy, a modified ISC, to minimize job losses.

The Forest Service, with good intent, adopted their policy. The administration worked hard to support export restrictions. Secretary Lujan has appointed a diverse and very qualified broad-based recovery team.

The Fish and Wildlife Service has proposed, on a very tight time schedule, a critical habitat, and we have appointed a blue ribbon economic analysis task force with a variety of specialists to look at many of the important economic questions for the Congress and for the people of the Pacific Northwest.

Throughout this process of action, there has been a great deal of public input, interaction with Congress, a lot of hard work by professional employees, and unprecedented coordination, cooperation, and communication between the agencies you see represented here.

Mr. Chairman, I have a few brief comments on the bills before you, but I will defer mostly to the expertise of the agencies here. The Fish and Wildlife Service has the responsibility for the long-term conservation of the northern spotted owl and other species and the resources under its jurisdiction. In the jurisdiction to date we have worked conscientiously, and will attempt to do so in the future, to follow the best biological science available, to follow the laws given us, and cooperate with Federal, State, and the private entities involved.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Turner appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you very much.

Mr. Jamison.

STATEMENT OF CY JAMISON, DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY ED SHEPARD, ACTING CHIEF, FORESTRY DIVISION

Mr. JAMISON. Thank you, Mr. Chairman. Today I am accompanied by Mr. Ed Shepard, who is the Acting Chief of our Forestry Division at BLM.

I also applaud you for bringing the perspective of this subcommittee to this issue. I think it is needed.

The goal of the administration is to achieve a balance between the desire for old growth protection and the need for a stable timber supply. That balance is very difficult to achieve with conflicting laws and procedures. I felt confident that through our planning process we would be able to balance the spotted owl and old-growth issues with the needs for families and communities in the Pacific Northwest.

In attempting to do so, we have followed the law to the tee. Our actions have been affirmed by a recent court decision in *Portland Audubon Society v. the Secretary of the Interior* in the U.S. District Court in Oregon. However, with the recent Fish and Wildlife Service designation of proposed critical habitat, and with a recovery team at work, and with court decisions unfolding, I now see very little light at the end of the tunnel. We have said that a legislative solution could be acceptable to the administration, but we have not even come close to any basic consensus on what that solution might be.

H.R. 842 and H.R. 1590 do not bring us any closer to achieving the balance we are seeking. Instead, the bills draw lines on a map and do not provide any guidelines for management of our forests and perpetuity. You cannot set aside a forest and expect it to endure forever without some type of management. Many things change. Old trees die and young trees grow older. A flexible approach is easy to manage with a dynamic process.

The lines on the map scenario pose serious management problems for the BLM. Our lands are arranged in a checkerboard pattern. Alternate sections of BLM land are interspersed with privately owned land. Over the last 50 years of timber harvesting, this pattern has evolved into a mosaic of age classes. Most remaining old growth stands are relatively small. For this reason, setting

aside continuous old growth reserves on BLM lands would be impossible.

I also have concerns about legislation that completely overrides our planning process. BLM is currently developing resource management plans on the O&C land. These are scheduled for completion in 1992 and for implementation in 1993. This process includes a great deal of public involvement. The BLM feels strongly that people directly affected by agency actions or by legislation should have a direct voice in the decisionmaking process. Both H.R. 842 and H.R. 1590 would negate significant contributions from many members of the public involved in our planning process.

Frankly, establishing old-growth reserves in advance of the agency planning process is equivalent to establishing wilderness areas without studies.

Also an important consideration of H.R. 842 and H.R. 1590 is their economic impact. We estimate that the PAYGO impacts could be as much as \$240 million for BLM over 3 years.

Turning to H.R. 1309, we also have concerns about this bill. We agree that there is a need to consider community stability when making resource decisions.

On H.R. 2463, we have not had the opportunity to carefully review this bill. However, from my understanding, it recognizes the planning process and provides more balance than any of the other bills introduced to date.

In closing, I want to emphasize the administration's desire to legislatively achieve a balanced multiple use solution to the old growth forest issue. Such a solution could provide an appropriate mix of protection and management for ecosystems in the Pacific Northwest that contain old growth trees. We are willing to work with Congress to this end. Thank you, Mr. Chairman.

[The prepared statement of Mr. Jamison appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you very much, Mr. Jamison.

We will now begin with our questioning. We will be under the 5-minute rule, and we'll go around as many times as necessary, but I would like to keep some order.

We'll begin with the gentleman from Washington, who is very interested in what happens out in the Pacific Northwest for one reason or another.

Mr. MORRISON. Thank you, Mr. Chairman. When I left them last night, they were interested in what we were doing here this morning, too.

I want to pursue a couple of things. First, I sense some of the difficulty that we face now is that we have this matrix that comes from the overlapping of different legislative acts. Could I get maybe from each of the three of you some short discussion on what I would call a single jeopardy approach? That is, once you were listed, once a listing occurred, no matter what you had in your forest planning provisions, for instance, but then the Endangered Species Act would apply and would then be the mechanism that would be utilized for recovery. We had some mechanism that dropped the other provisions once the listing actually occurred.

What are the weaknesses and strengths? Does that help? Does that hurt? Does that achieve our goal? I would think that if the

Endangered Species Act is good enough for land parcel A, then why isn't it good for all the rest of them as well?

Mr. BEUTER, let's start with you.

Mr. BEUTER. Mr. Morrison, what you say makes a lot of sense.

The difficulty that the Forest Service ran into with Judge Dwyer's decision is that if you look at the Endangered Species Act, it requires a specification of critical habitat from the Fish and Wildlife Service. It requires the Secretary of the Interior to develop a recovery plan.

If you look at the National Forest Management Act and NEPA, and the regulations pursuant to the National Forest Management Act, the Forest Service is required to provide for the viability of the species. So you have the possibility of the work being done under the Endangered Species Act being done over here, while at the same time, the Forest Service is being required to essentially duplicate that work, to look at the species to try to figure out what to do for its viability.

As I mentioned in my testimony, that's at best a duplication of effort and at worst an impasse. You're going to have each of those laws played off against each other. It's not that the laws are necessarily bad on their own, it's in their interaction and their overlay that gives us problems.

Mr. MORRISON. Mr. Turner, is this adequate protection if we just put it all in your hands?

Mr. TURNER. Mr. Chairman, I don't think that would be a wise course of action. The Fish and Wildlife Service does not have the expertise, nor should they be given the business of deciding the management scenarios, given the land resource agencies gathered here. They have organic acts that give them different uses of commodities and services, as I read them, a balanced approach, including protecting of owls. Those acts already say you can serve owls.

The Endangered Species Act, in my opinion, should be a safety net, a conscious last resort at the end of that process when in fact a species gets into a critical situation. I think the balancing of the management strategies of the land management agencies that know their land best, know their needs, know their constituents, certainly have as much expertise of which I am Director. They have those responsibilities and it should not be the Fish and Wildlife Service or the Endangered Species Act to be the original congressional mandate.

Mr. MORRISON. So even though this creates a different set of responses to listing on different lands, you say that is justified?

Mr. TURNER. Will you please repeat that question for me, Congressman?

Mr. MORRISON. Since we're dealing with two different land management agencies here at the same table, they have different requirements. You are saying that that difference is justified and that the recovery plan that you eventually will put together should be different on those two different management scenarios?

Mr. TURNER. Mr. Chairman, that's an excellent question. That presumes that the Endangered Species Act then clicks in when something else has failed.

Mr. MORRISON. That's right.

Mr. TURNER. There are those forces that fail that find the land resource management agency through dictates of Congress and otherwise fail to meet the obligations of the organic acts, and then when a species gets into crisis, you have something like critical habitat to come along.

It's certainly my intent, and I believe the other agencies, in the coming months of the recovery process, to get a coordinated strategy and long-term goals and objectives that we have developed together that then we can tie critical habitat and the Forest Service and the BLM will then have a jointly developed conservation strategy, that will coincide with one another.

Mr. MORRISON. I guess my goal in asking this question as we search for answers through these hearings is then to eliminate this unbelievable overhand of the courts. This could be worked out so we achieve the goal of the Endangered Species Act. Shouldn't that apply to everyone?

That's my question.

Mr. Chairman, I am out of time. I would like to have Mr. Jamison have a couple of seconds, please, to answer that question.

Mr. JAMISON. I'll be very brief. I would like to make two points. First, if we were protecting a live critter or a plant, I would say that the Endangered Species Act ought to walk in and take over. But when you're going on large habitat areas where you have 11 million acres concerned, and also it's presumed that the acreage will grow up to be protected habitat, I think you have to have the agencies involved.

I don't think you ought to toss out the Forest Management Act in that process.

Mr. MORRISON. Thank you.

Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from Indiana.

Mr. JONTZ. Thank you, Mr. Chairman.

Dr. Beuter, let's start on page 3 of your testimony. "Despite their best efforts, the system is bogged down by appeals and litigation, much of which has more to do with process than substance." Can you estimate for us how much volume of timber is now unavailable because of appeals?

Mr. BEUTER. With your permission, I would like to ask John Butruille, the regional forester in region 6 for his opinion on that.

Mr. JONTZ. Sure. And you might mention how many of those appeals are by the industry and how many are by environmentalists.

Mr. VOLKMER. John Butruille, would you identify yourself, please?

Mr. BUTRUILLE. I'm John Butruille, regional forester with the Forest Service Pacific Northwest region.

I don't have those numbers with me, Congressman, but I can provide them.

Mr. JONTZ. Are you talking about 100 million board feet?

Mr. BUTRUILLE. I think it's in excess of that which is tied up.

Mr. JONTZ. Is it 200 million board feet?

Mr. BUTRUILLE. I think it's closer to 250 million board feet, but I need to check that number.

Mr. JONTZ. I think that's very important that we get that information.

Also, would you agree with me that appeals of plans have been filed by the industry as frequently as they have been by the environmentalists?

Mr. BUTRUILLE. No, I don't believe that is correct, sir. There have been some appeals filed by industry, but the majority are filed by the environmental community.

Mr. JONTZ. OK.

Mr. VOLKMER. If the gentleman would yield for just a minute, we'll give him an extra minute.

Mr. JONTZ. Sure.

Mr. VOLKMER. I would appreciate it if you would send that information to my office and show on there the appeals by which side and the number of board feet affected.

Mr. JONTZ. Continuing to Dr. Beuter, can you give me the volume of timber that is unavailable because of litigation?

Mr. BEUTER. We don't have those figures at hand, but we will try to provide the information to your office.

Mr. JONTZ. The Dwyer decision has an impact of about 1 billion board feet. Is that correct?

Mr. BUTRUILLE. The impact of Dwyer is in excess of that. Our sale program for this year was 3.4, and I anticipate sale after Dwyer of about 1 billion feet within the region. So it's in that magnitude. That's not all caused by Dwyer, but a major portion of it is.

Mr. JONTZ. According to Dwyer, the difference—I'm not sure that I can find this real quickly—tell me if you agree with this statement. "Testimony on economic impact assumed a 16-month injunction. The Forest Service would sell between 1.7 and 1.4 billion board feet in fiscal year 1991 from the 17 spotted owl forests if permitted to sell timber consistent with the ISC report. The sale levels, if owl habitat were protected in the interim, would be about 400 million board feet in fiscal year 1991 and 415 million board feet in fiscal year 1992. The difference would be between 1.03 and 1.34 billion board feet." Is that in the ballpark? That's what the judge says.

Mr. BUTRUILLE. I would say that's in the ballpark.

Mr. JONTZ. OK.

Mr. BEUTER. Mr. Jontz, I would like to point out one thing that may be overlooked by that.

The Forest Service had submitted about 900-million feet to the Fish and Wildlife Service for consultation, of which it is my understanding that 803 million board feet were found to be without jeopardy. So that, I believe, would be timber that could have been sold in fiscal year 1991, had we not had the judge's injunction.

Mr. JONTZ. Proceeding with your statement, Dr. Beuter, you said that much of this has more to do with process than substance.

I want to read to you a little bit of the language from the Dwyer decision and ask for your response. The judge says that the records of this case show a remarkable series of violations of the environmental laws. When directed by the Congress to have a revised record of decision in place by September 30, 1990, the Forest Service did not even attempt to comply. The judge further says that the reasons for this pattern of behavior were made clear in the evidentiary hearing.

George Leonard, Associate Chief, testified that agency experts began in early 1990 the work needed to have a revised plan in place by September 30 of that year, as Congress mandated in section 318, but the Secretaries of Agriculture and Interior decided to drop the effort. The public was not told of this decision to ignore what the law required.

The judge further continued that had the Forest Service done what the Congress directed it to do, adopt a lawful plan by last fall, the case would have ended some time ago. Then the judge concludes that more is involved here than a simple failure by the agency to comply with the governing statute. This most recent violation of NFMA exemplifies a deliberate and systematic refusal by the Forest Service and the Fish and Wildlife Service to comply with the laws protecting wildlife.

It is not the doing of the scientists, foresters, rangers, and others at the working levels of these agencies. This reflects decisions made by higher authorities in the executive branch of Government.

Is that finding by the court consistent with your position that the reason for this litigation has more to do with process than substance and that the agency is blameless in this matter?

Mr. BEUTER. Yes, I believe the issue before the court was a viability of the northern spotted owl. All of what you read had to do with process. I heard nothing about the viability of the owl being in danger.

Mr. JONTZ. That's not what the judge says at all. When I have more time later on, we will read the——

Mr. BEUTER. I read the decision also, Mr. Jontz. I saw nothing in that decision that said that the northern spotted owl was in danger beyond the findings of the Fish and Wildlife Service.

Mr. JONTZ. We can return to that. That is not in fact—there is ample scientific conclusions I think in the testimony and when I have some more time we will return to that point.

Mr. BEUTER. I'll be pleased to do that.

Mr. VOLKMER. The gentleman from Missouri.

Mr. EMERSON. Thank you, Mr. Chairman.

I want to ask Mr. Jamison a question.

Mr. Jamison, in rejecting H.R. 842 and H.R. 1590 as viable solutions to this problem because you indicated that you foresee some funding problems imposed by the Budget Enforcement Act, you nonetheless stated that you want to emphasize the desire of the administration to legislatively achieve a balanced multiyear solution to the old-growth forest issue and suggested that such a solution should provide for an appropriate mix of protection and management for ecosystems that contain old-growth trees.

If we were to put you in charge of crafting a balanced multiyear solution to the old-growth issue, what elements would you include in the solution?

Mr. JAMISON. Basically three. First, I would propose a short-term guarantee to both the timber industry and to the conservation community of what would be done to protect the spotted owl. That would be over a 3-year period. Second, I would outline over a period of probably a year a study and develop a plan that would take us from the end of the third fiscal year probably the next 10 years of what the long-term reasonableness of the plan would be.

In that plan it would do two things. First, it would tell us how we were going to address the spotted owl, including the recovery team, and it would tell the timber community what their available cut would be.

Then the third component of that would be some protection to get us through the first 3 years—first so that we could maintain some stability in the area, and so that we could have some time to prepare that long-term plan.

Mr. EMERSON, right now we are out of sync. We have a recovery team going that is working on a solution that may not be done until the first part of 1993, at the earliest, and we also have critical habitat that has been designated by the Fish and Wildlife Service, both under proper procedure, and then the third is that we have the court decisions. Right now, the BLM is not stymied by any court decision, but I think over time we probably will be.

So I would put those three components into any long-term solution. If we do that, I don't think we're going to need the economic side of that equation.

Mr. EMERSON. Would you restate that? What about the economic side of the equation?

Mr. JAMISON. The economic side of the equation is that those folks want a job out there.

Mr. EMERSON. Right.

Mr. JAMISON. And they don't want a hand-out. I have heard that time and time again. I have toured many of the timber communities. I think if we can guarantee that community out there a certain level of jobs, most of those communities, if that is reasonable, can adjust to that. They can do that without the heavy hand of the Federal Government. What we have on the books now I think would cover them through that. If we don't have that, we'll probably have the crash.

Mr. EMERSON. Thank you.

Mr. VOLKMER. The gentleman from Idaho.

Mr. STALLINGS. Thank you, Mr. Chairman.

Mr. Beuter, did you know that H.R. 2463 was introduced last week by Members of Congress, including Mr. Huckaby and Mr. Swift? It is a comprehensive bill that has been crafted by a timber industry/labor management committee and deserves careful review and serious consideration. Supporters argue that the proposal would establish a long-term program that would provide rational process to revise and implement national forest and BLM plans.

The legislation offers an alternative approach to the continuing timber controversy in the Pacific Northwest. Furthermore, it addresses many of the programmatic conflicts that have arisen in the national forests in the past 15 years.

Have you had a chance to review this legislation? Could you give me some sense of your agency's opinion on that?

Mr. BEUTER. Yes, sir. I have had a brief time to look at it. We have a brief statement in our written testimony with regard to the bill. We believe there is a lot in that bill that has merit. Some of the principles I outlined in my testimony would coincide with some of the aspects of that bill.

So it's not a bill, based on our first reading of it, that we could support as it is written now, and we don't necessarily think that it

by itself is the solution to the comprehensive problem, but there is much there to consider.

Mr. STALLINGS. Mr. Jamison, do you have any feelings on that?

Mr. JAMISON. I would concur with that. I think that I would compliment Mr. Huckaby. It puts it back to some logical planning systems that are on the ground. It does two things. It says that we have to address the owl issue and it also says that we have to address the timber supply issue. I think those two components are my components also.

I think there is a lot that we can get together on in that bill, and we can probably address that bill. I think the most problem we would have with that bill is the economic assistance. I think we will work with you on that, but right now, we can't buy into that part.

Mr. STALLINGS. Thank you.

Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from California, Mr. Herger.

Mr. HERGER. Thank you, Mr. Chairman.

Just following up on this last line of questions, where we were talking about the Huckaby bill, in comparison with the other two bills that we're considering today, do you have a preference with which direction you feel we should be moving in?

Mr. BEUTER. As I stated in my testimony, the Vento bill and the Huckaby bill both have a lot in them that ought to be considered. The thing that we're concerned about in the Vento bill is the specification of how many acres should be reserved without careful analysis going through the planning process and that sort of thing. The Huckaby bill does not have that and puts a heavy reliance on the Forest Service planning process to make those determinations.

Following a study period in which scientifically qualified people can look at the ecological significance of old growth, and evaluate it in terms of its composition, its structure, and its function—one of the things that gets overlooked an awful lot is that everybody has a feeling for what old growth looks like and what it is like in terms of structure, but we don't talk much about its function other than our discussions about the spotted owl. Before we start setting aside a lot of old growth, we ought to really analyze why we want to do that.

Mr. HERGER. Thank you.

Could we imply by that—or do you feel that perhaps we might be able to manage for the spotted owl and for the old growth without perhaps setting aside the degree that is in the Jontz and Vento bills?

Mr. BEUTER. Yes. I think it's important to emphasize that the strategy set up by the interagency scientific committee is one in which you have habitat conservation areas and a specified type of management outside of the habitat conservation areas. The habitat conservation areas are about 5.4 million acres of which only about 1.8 million is actually old growth.

The spotted owl issue is one of certainly some amount of old growth for the birds to nest and to have adequate protection from predators and certain other aspects of their existence, like temperature control and that sort of thing. But the more important issue is how the forests are managed. We have some wonderful opportu-

nities to look at a management mosaic, such as is implied by the interagency scientific committee, in which you can have old growth in the three categories that I suggested in my testimony.

Some will be reserved for all sorts of reasons, some for the spotted owl, some for aesthetics, some because it has museum value. But we believe that a good portion of the old growth can be managed, to some extent, to preserve its character and also provide for some of these other things, and that some of it can be managed for timber production.

Mr. HERGER. Do you feel that we are moving in that direction, or that we are not moving in that direction, generally?

Mr. BEUTER. I believe within the forest plans we have moved in that direction to a great extent. There are considerable set-asides of old growth within the forest plan, some 3 million acres between lands that had already been set-aside and had been proposed for set-aside. Those set-asides were for a number of reasons, initially for spotted owl habitat under a different theory than we're operating under now, some of it for riparian zone protection, some of it for aesthetics.

I think the forest plans are a good place to start to look at some of the standards and guidelines.

I think there is no question that the forestry community has to take a closer look at how these lands are managed, and the Forest Service initiated a new perspectives program, which essentially is a will to look at new ideas. They are proceeding on that both in their research program and in their management on the ground.

Mr. HERGER. Thank you.

Mr. VOLKMER. The gentleman from Oregon, Mr. Kopetski.

Mr. KOPETSKI. Thank you, Mr. Chairman.

I appreciate the testimony this morning.

Dr. Beuter, I have a couple of questions for you. It seems that what your testimony says is that the administration is against the Jontz bill, the Smith bill, the Vento bill, and the Huckaby bill. That's fine to be against things, but you're also for stuff. It's significant to note—and I assume you're speaking for the administration in your testimony when you express on page 5 the recognition of the need to create some old-growth reserves. So I am going to assume that this is now the administration's position. Is that a correct assumption?

Mr. BEUTER. That we will have old-growth reserves?

Mr. KOPETSKI. That we have to institute some legislation—

Mr. BEUTER. The administration recognizes the desirability of old-growth reserves, yes.

Mr. KOPETSKI. So they will be supporting some kind of legislation that institutes that kind of a reserve system?

Mr. BEUTER. Provided that it is done in a responsible balanced way.

Mr. KOPETSKI. Everything that we do is responsible.

What is the administration going to do for this year's and next year's harvest level, given the current court cases and the situation with harvesting in the Pacific Northwest? The 800 million board feet is not going to cut it, so what are we going to do today?

Mr. BEUTER. As far as the timber sales that are enjoined, I think they are history for this year.

Mr. KOPETSKI. You don't think there's anything we can do?

Mr. BEUTER. Short of a short-term legislative fix, I don't know what it is. The Forest Service is under a court order, by next March, to have met and complied with NEPA and NFMA in these matters of species viability, as I pointed out, while at the same time a well-qualified recovery team is laboring on exactly the same issue in a different venue.

Mr. KOPETSKI. In terms of the—I think you heard Mr. Vento's testimony earlier. He said that he would prefer not to move down the road of using sufficiency language, even in a transition period. Do you know of some other methods by which we could have a harvest? Recognizing the need for a legislative solution for an interim period, what other avenue might we take other than a sufficiency language approach?

Mr. BEUTER. Well, I honestly don't know. Without the Congress coming up with some means to prevent the harvest program—to allow the harvest program that it decides upon to proceed—the things I think about are that we can sit down—incidentally, the administration looks at all those bills and sees some elements of those bills that are positive and that we can work with. We certainly want to work with the Congress to get the best parts of all those bills together.

In the process, we have a lot of scientific expertise that can give us guidance on what we would be capable of doing during that interim period. Perhaps there would be a way to take that scientific advice and label that as sufficient for this interim period to assure that we could move forward. The moving forward would be in the context of the areas being protected.

Under the current administration policy—not inconsistent with the ISC report—we are not harvesting in HCA's. We are not harvesting in areas that were reserved in the forest plans. We couldn't do that without amending the plans.

So already the bulk of the area that will be considered during the interim period for deciding the status of that old growth, whether it should be reserved, managed under special guidelines, or put into the multiple-use category, the bulk of that land is already protected by policy. So there ought to be some basis for sufficiency with scientific input as to what our capabilities are for the next 3 to 5 years.

Mr. KOPETSKI. Also, don't we have to be careful? We have to keep in perspective the reality that if we're limiting our harvesting on our public lands, and we think we're going to be making it up on private lands, that we may be doing serious damage on those private land areas as well. I didn't let Mr. Jamison respond, so you can comment, and then Mr. Jamison, you may comment on anything.

Mr. BEUTER. I personally am very concerned about any thoughts, such as have been expressed in some of these analysis that we will cut back on the Federal harvest, the price will go up, and then the private people will come onto the market. That would be a disaster for the State of Oregon because people will begin to cut—as they already are—down into 50, 40, and 30 year old timber. So all the forecasts of timber availability into the future go down the drain. It's just not a sustainable idea.

Mr. KOPETSKI. Mr. Jamison, did you have any comment?

Mr. JAMISON. I would concur with Mr. Beuter and add one additional thing. On the sufficiency, I don't see a way out. We can probably develop something procedurally that would last 6 weeks until they could get us in court and put a stop to it. I think really we're up here where the rubber meets the road right now.

Mr. KOPETSKI. Thank you very much.

Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from Oregon.

Mr. SMITH. Thank you, Mr. Chairman.

Dr. Beuter, on page 7 of your statement, you did say that during the interim period the legislation must provide a predictable timber sale program. I assume what you mean by that is that in the short-term, an identifiable cut must be determined. Is that correct?

Mr. BEUTER. Yes, I would hope so.

Mr. SMITH. Let's see if I have this correctly in mind. The critical habitat established by the Fish and Wildlife Service with a comment period will not be concluded until I understand maybe November. That's the 11.34 million acres, but they haven't got the economic side plugged into it, so we won't have anything until next November.

Then I understand that the recovery team that both agencies have will not be reporting until December of this year, at the earliest—maybe not even then—so we won't have a recovery program identified until December. That is, of course, into the next fiscal year. Then we don't have any old growth identified because nobody agrees on the definition. We don't even know how much old growth we have left because we know there are some in wilderness areas, but depending upon the identification, we don't know how much old growth there is. That's part of the old-growth study that is coming on in the next 3 to 5 years in the long term.

Then, we're not sure that owls can only live in old growth. We know that they live in second growth in northern California. We are finding owls everywhere. By the way, the more we look, the more we find. So if we don't know how much old growth there is, how do we adjust how many owls there will be and what habitat we can preserve the old growth.

Those are all unknown factors, and in the meantime we have to be precise here in some sort of program and find a way to sustain these communities while we're doing all these studies and doing all this scientific work.

I want to ask each of you if you agree that there has to be in the short-term—and I'm assuming that you all agree that there has to be a short-term program and long-term program—an interim and a long term.

You're all nodding, so I won't ask you that question.

But in the short term, there has to be an identifiable cut, and does there have to be—if you agree—a sufficiency portion that will allow us to get to these unknown factors—in other words, sufficiency protection from the courts. If we have 2.5 billion board feet identified as allowable cut, we have sufficiency for a year or two or three until that is harvested. Do you agree? If you don't, tell me why.

Dr. Beuter.

Mr. BEUTER. Mr. Smith, the forest plans had a harvest level of 3.4 billion board feet.

Mr. SMITH. Right.

Mr. BEUTER. The estimate of the interagency scientific committee of a harvest level with the implementation of their recommendations was about 2.6 billion board feet, if I recall correctly. We are now down to virtually nothing.

So somewhere in that region, there has to be some level of harvest that we can assure will not endanger the viability of the northern spotted owl, and that will not endanger the function and value of old growth that we decide ought to be reserved.

I would also point out that whatever level we set should be done with great sensitivity to these parameters I just described, and the need to continue that harvest as high as we can within that region.

Mr. SMITH. So you agree that it's a short term, and you agree that there must be some number.

Mr. BEUTER. That's right.

Mr. SMITH. And you agree that we must have some protection from the courts in the short term.

Mr. BEUTER. Some protection of some kind. Whether it's from the court or not, I don't know.

Mr. SMITH. But wait a minute. We almost had an agreement here. If you don't have any sufficiency in the language—which is what I thought you said—then there is no way of achieving the cut. Is that correct?

Mr. BEUTER. Yes.

Mr. SMITH. OK.

Mr. BEUTER. There has to be some means of making sure that we're able to operate.

Mr. SMITH. Fine. I'll let you off on that rather ambiguous answer.

Mr. Jamison, do you want to comment on this?

Mr. JAMISON. There is nothing ambiguous about me. Yes, we do need sufficiency language. And we do need at least a minimum number of an ASQ. I think the communities out there deserve no less.

Mr. SMITH. Thank you.

John Turner.

Mr. TURNER. Congressman, I think the need for protection will depend upon the adequacy of the plan that is before us, how it deals in the balancing act of protecting owls and other resources versus providing some certainty and commodity resources for the Pacific Northwest.

Mr. SMITH. Now don't be ambiguous, John. We aren't going to have this information, as you well know, until—

Mr. TURNER. I think we—

Mr. SMITH. Old-growth habitat, the recovery, the economics—we're not going to have any of that in the short term. What are we going to do right now?

Mr. TURNER. Congressman, I think when you ask for sufficiency—and I am being hazy—it depends on—

Mr. SMITH. I'm not going to ask you to agree to anything that we do. I'm just asking if that's what you think we need in the process

Mr. TURNER. It would seem that to gain a level, as Mr. Beuter was talking about, that certainly the Congress should take into consideration the administration with some kind of insulation from the kind of court decisions that we have seen recently.

Mr. SMITH. Thank you. I appreciate that.

I have one last question, quickly. Have any of the agencies tallied what happens after you overlay land withdrawals, critical habitat, 11.3 million acres, wilderness, wild and scenic rivers, old-growth reserves proposed by the Vento-Jontz bill, administrative withdrawals—has anybody identified what is left for harvest?

Mr. ROBERTSON. They are not quite matched up just the way you stated it, but starting with the existing forest plans in region 6, there is 3.4 billion board feet. When we overlay the interagency scientific committee on top of that, that brings us down to 2.6 billion board feet.

Mr. SMITH. That's 11.4 million acres critical habitat?

Mr. ROBERTSON. No, I'm going to get to critical habitat in a minute.

Mr. SMITH. I didn't know what you said, then.

Mr. ROBERTSON. If we overlay the interagency scientific committee, HCA's on top of forest plans, that gets us down to 2.6.

Mr. SMITH. OK.

Mr. ROBERTSON. Now if you look at the experience that we have had with consultation, even not being consistent with the ISC report, we have gotten some of the information back. In our consultation with Fish and Wildlife Service, we have dropped about another 400 million due to consultation. So where we are at right now is about 2.2.

Now if you go and look at critical habitat—and assuming we can't harvest in there, which is questionable—that would bring us down to about 1.3 billion board feet in region 6. Then if you look at Judge Dwyer's decision, that gets us down to about 1 billion board feet.

Mr. SMITH. So we have come from 3.4 to 1 billion board feet is what you're really saying.

Mr. ROBERTSON. Yes, and that's all in net merchantable sawtimber.

Mr. SMITH. That is supposing that if you offered it, you wouldn't be taken to court with the 1 billion, I assume. Is that correct? You may be taken to court if you offer 1 billion under all these scenarios.

Mr. ROBERTSON. Out of this 1 billion about 800 or more million of that is east side Oregon and Washington, and yes there are some controversies over there.

Mr. SMITH. Of course. We're getting challenged on the old growth—you know that—and the Lakeview Working Circle is being challenged.

Mr. ROBERTSON. So about 80 percent of that is eastern Oregon.

Mr. SMITH. There is no certainty that you could sell 1 billion board feet if you had the chance. That's my point.

Mr. ROBERTSON. Mr. Smith, I don't think there's any certainty in any of this. I think it's a matter of risk.

Mr. SMITH. Thank you.

Mr. VOLKMER. The gentleman from Virginia.

Mr. OLIN. Thank you, Mr. Chairman.

I would like to continue along the same lines of the gentleman from Oregon, Mr. Smith. I think he is on the right track here.

I would like to get some kind of a grip on just what the administration's plan might be. That might sound sort of silly, but I think Mr. Turner started off by saying how much attention the administration has given to this problem, but then one-by-one-by-one I think you gentlemen have said that you consider yourselves bogged down. Mr. Jamison said that "We see very little light at the end of the tunnel," and then later, "We're out of sync." I think that's probably true. I don't challenge at all the fact that you have a lot of people working on this problem. There is now a question about that.

I don't see coming out of the administration agencies any kind of clarity as to how you're going to get out of the situation of being bogged down. That's really what Mr. Smith is talking about. We've been working on this for over a year. It's been quite a while. I can recall last September the joint Secretaries announced a plan for going ahead, but that didn't pass muster in the court.

Now you're in a position where I believe that you're saying that some emergency legislation is going to be required to break this thing loose so that we can at least do something about the situation of those communities while at the same time not overly threatening the situation with the owl.

Does the administration—maybe you can't speak for the Administration—but is it likely that the administration is going to be coming forth with a plan that they will recommend and enact here within a reasonable time? Can anybody comment on that.

Mr. Beuter.

Mr. BEUTER. I think we have to break it down. We have an immediate short-term problem and a long-term problem.

Mr. OLIN. That has been said many times. What do you want done about it?

Mr. BEUTER. That's the fiscal year 1991 timber sales. I don't see any way that those sales will go forward. There may not even be enough time even if we found a fix for that for them to go forward.

The bills that we have before us address the short term and the long term. I'm quite optimistic about working within the ideas that are in those bills with the Congress to come up with a solution. We have an excellent scientific panel that has been working with the committees in the Congress that will be testifying here today, people with the kind of knowledge and background to be able to counsel what the possibilities are. I believe we can come up with a solution working together.

Mr. OLIN. The administration does not have a bill of its own, I take it.

Mr. BEUTER. The administration does not have a bill of its own. It sees in the bills that are before us the solution to the problem.

Mr. OLIN. The administration is satisfied that within these bills we can find a bill. Which is the lead agency in the administration on this subject?

Mr. BEUTER. I don't know that there is one.

Mr. OLIN. Is there a lead agency? There is not.

Mr. BEUTER. I speak for the Department of Agriculture.

Mr. OLIN. Who is running the show for the administration?

Mr. BEUTER. Excuse me?

Mr. OLIN. Who is running the show for the administration? Is it Mr. Sununu? Who is it?

Mr. BEUTER. I believe it's President Bush.

Mr. OLIN. It's the President. Come on now. The President must have assigned this to somebody. Who is the leader?

Mr. JAMISON. Mr. Olin, we operate under two different laws. I'm doing it for the Interior Department, and Mr. Beuter is doing it for the Agriculture Department.

Mr. OLIN. So we have two Departments.

Mr. JAMISON. Right, and we're under two different laws, so—

Mr. OLIN. Two different laws, but we have one Government though.

Mr. JAMISON. Right.

Mr. OLIN. Has the President not seen fit to designate anybody in charge of this problem? Is that where you're sitting right now?

Mr. JAMISON. This has been discussed over at the White House several times. He is aware of it. What he told us to do—

Mr. OLIN. When Agriculture and Interior don't agree, do they go to the President and talk it over in the Oval Office?

Mr. JAMISON. No, I've not been in the Oval Office to sit with the President, but we get over there, though.

Mr. OLIN. I'm not being facetious because I think this is obviously a very complex problem. We're well aware of that. It has lots of laws involved, several Departments of the Government—maybe more than two—but we're not going to move ahead as expeditiously as the situation really calls for without some kind of coalescing of leadership. It's going to be hard for the Congress to get that, but it shouldn't be quite as hard for the administration. At least you have a boss. We don't have one.

Would you agree that you would benefit on this subject by having someone designated as the lead agency?

Mr. BEUTER. That may be a good suggestion.

I would say, Mr. Congressman, that the testimony of the various agencies does come into the administration from different perspectives, and it is reviewed and reflects the administration's position on these things. As to whether the administration would have a bill or anything else if we had some designated leader on it, I just can't answer that.

Mr. OLIN. I would hope that the administration would get to the point here very shortly where they would say, "Listen, we're not making it on this issue." This situation involves a big piece of our country, and not only that but it could also balloon and similar situations could arrive in other areas of the country.

Mr. BEUTER. I also might add that I wasn't being facetious when I said that it was President Bush because he did make a statement on this issue that we should seek a balanced solution. He is aware of the issue.

Mr. OLIN. I am well aware of that. I'm not the President, obviously, but in this kind of a situation, there needs to be somebody who is working this problem day by day to keep it moving to a solution.

Mr. Jamison, did you have a thought?

Mr. JAMISON. I think we have laid out in testimony numerous times up on the Hill—both sides—that we have set two or three principles that we would like to see move forward. They are in a lot of different bills. We have said that if you come down to those three principles, we in the administration would sign on. The hand is out. We want to move on this.

Mr. OLIN. I don't doubt that at all.

Mr. JAMISON. We're not trying to stonewall you. That's what I'm trying to say.

Mr. OLIN. I'm a little bit questioning, though. Here we have finally been shut down by the courts. That's not the sign of success exactly. So there is where we are.

Mr. Chairman, I think we will be pursuing this. I hope that we can get some—it may be clearer than I think it is, but it needs clarity. We're not really quite getting it as yet.

Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from Louisiana.

Mr. HUCKABY. Thank you, Mr. Chairman.

Last week I introduced the Forest and Family Farms Protection Act, H.R. 2463, which you gentlemen have had time to take at least a cursory review of. As you are aware, it is endorsed by the industry in the Pacific Northwest, both the operating companies as well as labor.

I would like to walk you through briefly just some of the high points and ask all three of you to respond from some of the decision points along the way.

First of all, we address the short term, as you have so well elucidated this morning that we need to do, and in a prompt manner. We say that the proposal would establish a 3-year Interim Management Program for the spotted owl. Do you concur with this in this timeframe?

Mr. BEUTER. Yes.

Mr. JAMISON. Yes.

Mr. HUCKABY. Mr. Turner.

Mr. TURNER. Mr. Chairman, I have not seen the bill. I am unaware of what the 3-year management plan is, so I cannot comment adequately on it.

Mr. HUCKABY. So we establish a timeframe here to give us time to address a long-term solution but so that we can establish certain parameters within this interim timeframe. We call upon the Forest Service and the BLM, after accepting comments from the public and guidelines from Congress, to specify areas that should be set aside that should be protected. In other words, we will call on both of your agencies to do this. Do you concur with this approach?

Mr. BEUTER. Yes. As we testified, during the 3-year period, there ought to be an evaluation of the existing old growth to decide its value for reservations and other types of management.

Mr. JAMISON. I would concur.

Mr. HUCKABY. We then set minimum timber sale floors. Do you concur? Industry and labor desires some certainty in this 3-year timeframe. Do you concur with this, that we should set minimums?

Mr. BEUTER. Yes.

Mr. JAMISON. I think so.

Mr. HUCKABY. Tell me—if you're prepared to—what do you think the minimum should be? I think we're somewhere between 1 billion and 3 billion board feet from the bidding I've heard this morning from the gentleman from Oregon and others.

Mr. BEUTER. It would be pure speculation to give you a number on my part. The difficulty, as I mentioned, is that we have some parameters to operate within the forest plans, the estimate for the ISC strategy, and so forth, but until you can actually sit down and look at the acres that you're dealing with, it is unfair to the agency to name a number that they cannot implement on the ground. So it has to be done on a site-specific basis. We would encourage the Congress to work together with people that are qualified to make those analyses to come up with the right number.

There have to be certain constraints. You have to be concerned about protecting the old growth and the owl, and at the same time there are sustainability constraints in the law for harvest on national forest lands that have to be considered.

Mr. HUCKABY. Mr. Jamison.

Mr. JAMISON. We don't have near the acreage or the volume that the Forest Service does, but I would estimate that somewhere in the BLM would be between 700 million and 850 million board feet per year would be possible in the short term. It depends on what would be the results of the long-term study. We are currently at about 750 million, Mr. Huckaby.

Mr. HUCKABY. I yield to the gentleman from Oregon, Mr. Smith.

Mr. SMITH. I thank the gentleman for yielding.

Dr. Beuter, I understand that this sounds like we're putting you on the spot. I want to do that. [Laughter.]

Mr. BEUTER. That's what I'm here for.

Mr. SMITH. You know the complexity here, and the gentleman from Louisiana is getting right to the nut of the problem. We have to come up with a number. We have all decided that we agree, we have to come up with a stipulated cut, you said so in your testimony, so everybody agrees. Who should we ask, other than the Forest Service, to come up with a recommended number? Recognizing that you have all these unknowns down the road, we're talking about the short term. We're trying to fill in the blanks. What is the number?

Mr. BEUTER. The best qualified people on Earth to assist in determining that is the Forest Service, but we don't have to depend entirely on them. We have the capability for outside review. There are well-qualified people at Oregon State University in your State that are capable of analyzing this.

Mr. SMITH. Would you come up with a number within a month for us?

Mr. BEUTER. I believe we could do that, yes.

Mr. HUCKABY. If I could reclaim my time, you do agree with the premise that Congress should establish a number in consultation and receiving input from the agency?

Mr. BEUTER. Absolutely. That's the way the number should be determined and not just pulled out of thin air.

Mr. HUCKABY. My time is about to expire.

Based upon the bills that are on the table today, which one comes closer to meeting your criteria that you can support that you would see as a framework for developing final legislation?

Mr. BEUTER. There is considerable overlap between your bill, Mr. Huckaby, and Mr. Vento's bill. As Mrs. Unsoeld testified, I think we can overlay those bills. There is something about each of them that would give us problems, and I think there is a lot to work with in the two of those.

Mr. JAMISON. With the present company in the room here, I'm going with you. [Laughter.]

Mr. HUCKABY. Mr. Jamison, we would urge you to read the bill, and respond if you might.

Thank you, Mr. Chairman.

Mr. VOLKMER. Thank you.

I have several questions I would like to ask.

To start off with, Judge Dwyer, in his decision, mentions that there is presently under contract through the Forest Service in the Pacific Northwest, in the two States plus northern California, 4.7 billion board feet available to be cut, and will be cut this year and next year. I would like to know if that board feet is approximately right, wrong, or what. Will somebody comment on that?

Mr. ROBERTSON. That number is just for the spotted owl forests. If you look at all of region 6 we have about 5.2 billion board feet under contract now, and the four northern California forests have about 500 million.

Mr. VOLKMER. You have 5.2 in Oregon and Washington?

Mr. ROBERTSON. Yes.

Mr. VOLKMER. And how many in region 5?

Mr. ROBERTSON. About 500 million in the four national forests in northern California.

Mr. VOLKMER. So we have in that area right now 5.7 billion board feet under contract, not under injunction, that can be cut?

Mr. ROBERTSON. I believe that we do have four timber sales that the judge has stopped that are already under contract. Those four timber sales amount to about 16 million board feet.

Mr. VOLKMER. So we still have then——

Mr. ROBERTSON. We still have about 5.7, and then the difference between that number and the judge's number is that he was just looking at the spotted owl forest.

Mr. VOLKMER. I understand that. I'm trying to see what is available out there and what is going to be cut.

Last year, in 1990, what was actually cut?

Mr. ROBERTSON. In region 6 we had 5.2 billion.

Mr. VOLKMER. You had 5.2 billion in region 6. What about region 5, those four forests?

Mr. ROBERTSON. Mr. Chairman, I don't have that number.

Mr. VOLKMER. Can you get that for me?

Mr. ROBERTSON. Yes.

Mr. VOLKMER. So if cutting would proceed—in 1990, it was 5.2? How much in 1989 was cut?

Mr. BUTRUILLE. Congressman, in 1989, it was just at——

Mr. VOLKMER. I'm talking about actually harvested. That's what I want—harvested.

Mr. BUTRUILLE. These are harvested figures. It was about 5.2 in 1990, and as I remember it was just at 5 the previous year. The 10-year average, though, is below that. It's about 4, I believe.

Mr. VOLKMER. The reason I'm saying that is because I look at Judge Dwyer's decision and I'm trying to find out exactly what's going on. He says that that 4.7, plus the additional that you're going to be able to sell outside the spotted owl area, is going to get you about 1 billion, 1.3 billion, or something like that, and that together is going to last you 19 months for the timber industry out there at levels of 1990. That's what he said. And that's not going to happen.

Mr. JONTZ. If the gentleman would yield, I think that presumption is made on certain assumptions about level of demand, basically that the level of demand for 1991 would be continued into 1992.

Mr. VOLKMER. The judge says that 1991 and 1992 are going to be less than they were in 1990.

Mr. JONTZ. The most credible current forecasts suggest that the demand for wood products during 1991 and 1992 will be at or below that of 1990.

Mr. VOLKMER. Right, but if they're at 1990's level, it's all going to be cut in 1991. Is that correct or incorrect?

Mr. BEUTER. It is hard to know. Even if you have a timber sale under contract, it isn't a matter of instantaneously going out and cutting it.

Mr. VOLKMER. I understand that.

Mr. BEUTER. There are roads to be built and preparation. It could take well over a year for even the existing volume to be harvested.

The other thing we have to realize is that this is distributed over thousands of miles in these various States, so it's also a distributional problem.

Mr. VOLKMER. I understand that. I understand that in certain areas there may not be hardly any under contract, and therefore they're not going to get any timber because it's all going to be cut on the other side of the mountain some place. I understand that. But I'm trying to get at an overall figure because of what the judge says in here. I have some reservations in my mind about what the judge said, so I am trying to get a clear idea as to what is going to happen out there.

Let's say, any legislation we pass is not going to take effect this year. What is happening out there this year?

Mr. BEUTER. Mr. Volkmer, I had an executive from one of the forest products companies in my office a few days ago, and he noted that prices have increased 30 percent before the judge's decision, and he expected them to increase another 30 percent.

Mr. VOLKMER. That's stumpage rates?

Mr. BEUTER. That's prices for wood products, products that he produced.

Mr. VOLKMER. You're talking about at the wholesale level, things that he produces?

Mr. BEUTER. That's right.

Mr. VOLKMER. Whether it is 2-by-4's, or plywood, or whatever it is?

Mr. BEUTER. That's right.

Mr. VOLKMER. It's going up?

Mr. BEUTER. Yes. As we're pointing out, the news in the past week—especially in the housing area, there is indication that we are in a recovery process. We're likely to see, despite the judge's forecast, increasing demand for wood products in the next few years.

Mr. VOLKMER. My time has expired. We'll start all over.

The gentleman from Washington.

Mr. DEFazio. Mr. Chairman, are you going to allow sitting Members who are not on the committee to ask questions?

Mr. VOLKMER. When we are all finished with all of our questions.

Mr. DEFazio. Again?

Mr. VOLKMER. Again and again and again.

Mr. DEFazio. I see.

Mr. VOLKMER. Then you can have your turn. [Laughter.]

Mr. DEFazio. Could you give me an estimate on the time, like the estimate on—[Laughter].

Mr. MORRISON. Hopefully this will be quick. I noted with great interest that in your testimony, Mr. Beuter, I saw for the first time in writing that you were advocating an old-growth reserve process. Am I accurate in my observation that this is the first, and if so, is this been given the blessing of this nonexistent administration oversight over this process?

Mr. BEUTER. The testimony was carefully reviewed and discussed among members of the administration. There is recognition of the desirability of some sort of old-growth reserve system starting with recognition of the vast acreage that has already been reserved in national parks and wilderness areas and in other areas that have been set aside through the administrative process.

Mr. MORRISON. I noticed that you went beyond that. You also indicated then that whatever may be legislatively determined ought to be added to that. I guess what I'm trying to figure out here is, Is this now a move on your part in the direction of what those of us in the Pacific Northwest have been discussing now for some time?

Mr. BEUTER. To the extent that it may be more explicit, I would say that perhaps it is a breakthrough, but I think it's the kind of thinking that has been there the whole time. The real key is to get rid of the idea of this 0/1, either cut it or save it, mentality. The administration believes that we have a lot of latitude for managing these forests, all the way from reservations, which have been supported in the past and are being supported, and the wilderness set-asides, and other types of legislative set-asides. But then there is an area of consideration for flexible management, as well as to maintain our ability to provide forest products and other resources.

Mr. MORRISON. John Turner, you have the world's toughest job, as far as I'm concerned. Do you have any general comments about the consultation process, how you sense it is working against this background of almost impossible legal requirements?

Mr. TURNER. Mr. Chairman, I guess more important is how my colleagues in the resource management agencies viewed it. It has been very demanding on staff, but I think I'm rather proud of our track record that working closely with the agencies. For example, with the Forest Service, we had planned to not wait until they brought us sales, but walk the ground with them in their forest districts with our biologists and theirs. And before a lot of work was

done in scoping and building the sales, we've had close working relationships with them. I think the consultation process, realizing the size of the area, the number of sales, the controversy, the narrowed options, has worked reasonably well.

Mr. MORRISON. What changes have been made now that you've had to, under the declaration of critical habitat, go back to revisit some sales that might have been approved before, or have gone through the consultation process earlier?

Mr. TURNER. Congressman, that is an excellent question. I don't know that we've adequately communicated on it between the three agencies. We must recognize that the critical habitat is a proposal, therefore conferencings are only recommendations and not mandatory or binding on the agency.

I have specifically stated—and I believe our regional director has as well—we do not see a need to revisit a great many of those sales. We will leave that up to the action agency that has to make that assessment. There may be some they wish us to look at again, but it is my hope that we will not do another turn of events. Some of these have been conferenced on, some have been consulted on, and their jeopardy standard. I don't see a need now to stop and redo all the packages.

Mr. MORRISON. That will be helpful.

It is my understanding that we have one area, based on a long-standing history of operation on the Yakima Indian Reservation, that there is in effect an HCP—Habitat Conservation Plan—in effect that is allowing some taking. I'm not sure whether you are familiar with that.

Mr. TURNER. Congressman, I have heard of that, and I am seeking additional information.

Mr. MORRISON. I would ask you to send it to my office, if in fact that exists, that might well be a model for us. That would be helpful to the committee if we could have that information.

Mr. TURNER. We will try to provide that.

[The information follows:]



ADDRESS ONLY THE DIRECTOR
FISH AND WILDLIFE SERVICE

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington, D.C. 20240



Honorable Harold L. Volkmer
Chairman, Subcommittee on Forests,
Family Farms, and Energy
Committee on Agriculture
House of Representatives
Washington, D.C. 20515

APR 10 1991

Dear Mr. Chairman:

You requested information concerning a section 10 permit to allow incidental take of spotted owls by the Yakima Indian Reservation (Reservation) based on a habitat conservation plan (HCP). The Fish and Wildlife Service's (Service) Portland Regional Office has informed me that the Reservation was provided incidental take of northern spotted owls based on a section 7 biological opinion (enclosure 1) given to the Bureau of Indian Affairs (Bureau) and not on a section 10 HCP.

Federal agencies request consultation with the Service if the Service determines the action may affect an endangered or threatened species. The Service recognizes that the Reservation is a sovereign nation and is considered private land for the purposes of compliance with the Endangered Species Act (Act). However, since the Bureau carries out the timber sale program on the Reservation for the Tribe, the timber sales and related activities are subject to section 7 consultation under the Act.

On October 22, 1990, the Bureau requested formal consultation on the ongoing and proposed timber harvest on the Reservation and on the Yakima Tribe's spotted owl management plan (enclosure 2), which the Bureau had approved and was operating under as directed by the Tribe. Based on the Service's determination that the information in the plan was inadequate to assess the impacts on spotted owls from timber management techniques employed on the Reservation, the Service deferred formal consultation on the management plan. In the biological opinion issued to the Bureau on the timber sale activities, the Service recommended to the Bureau and the Tribe that the spotted owl management plan be implemented on an interim basis with some stipulations.

Based on implementation of the management plan and the stipulations assigned to it in the biological opinion, the Service then determined that the timber sale activities on the Reservation proposed by the Bureau would not likely jeopardize the continued existence of spotted owls.

The Service would welcome the opportunity to work with the Tribe to provide technical assistance for development of a section 10 HCP to address activities the Tribe feels may result in the incidental take of listed endangered or threatened species and which do not require Federal funds or Federal permits.

Thank you for the opportunity to provide this material to the Committee.

Sincerely,


DIRECTOR (sgd.) Bruce Blanchard

Enclosures

Enclosure 1



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Fish and Wildlife Enhancement
 2625 Parkmont Lane SW, Bldg 8
 Olympia, Washington 98502
 206/753-9440 FTS 434-9440

February 15, 1991

Memorandum

To: Area Director, Bureau of Indian Affairs
 Portland, Oregon

From: Field Supervisor, Fish and Wildlife Service
 Olympia Field Station, Olympia, Washington

Subject: Formal Section 7 Consultation for Ongoing and Proposed Timber Harvest
 on the Yakima Indian Reservation (FWS Reference 1-3-91-F-109)

This is in response to your October 22, 1990, letter that was received on October 24, 1990, requesting formal consultation pursuant to Section 7(a)(2) of the Endangered Species Act of 1973, as amended (Act) for the subject activities. This biological opinion will address the effects of these activities on the northern spotted owl (*Strix occidentalis caurina*), a federally listed threatened species.

On January 17, 1991, we provided you with a draft copy of this opinion for your review. We stopped the consultant's process on that date until we received your comments on February 6, 1991, at which time the process time-line was restarted.

A request was made to consult on the spotted owl management plan that was prepared by the Yakima Indian Tribe (Tribe). It is our understanding that the Bureau of Indian Affairs (Bureau) has approved this document and is operating under its provisions as directed by the Tribe. We have reviewed the management plan and find it deficient in providing a comprehensive strategy for managing and conserving the spotted owl on the Yakima Indian Reservation (Reservation). The plan in its current status is an excellent beginning document. The deficiencies result from the lack of information on owl occurrence on the Reservation and the unknown effects of selective harvest techniques to spotted owl distribution, behavior, and productivity. These concerns are further discussed in the section of this opinion entitled "Effects of the Project." Additional topics that should be addressed in the plan are included in the "Conservation Recommendations" section of this opinion.

Since information does not exist to adequately assess the effects to spotted owls from the timber management techniques employed on the Reservation, we are deferring your request to formally consult on the management plan. However, since efforts are under way to obtain the information necessary to address our concerns, we recommend that the current spotted owl management plan be

implemented on an interim basis with the following change: for future timber harvest that is to occur within the median territory (1.8 mile radius circle centered on the nest site or activity center) of a resident or pair of spotted owls, most activities should be conducted in accordance with the Service's guidelines for avoiding take. This requires maintaining at least 40% suitable habitat (2523 acres) within 1.8 miles of the nest or activity center; maintaining at least 500 acres within 0.7 mile of the nest site or activity center; and maintaining 70 acres of the best suitable habitat surrounding the nest site or activity center.

We recommend that the interim spotted owl management plan with aforementioned changes be implemented in conjunction with Section 7 consultation for future federal activities, until additional information is available to prepare a final spotted owl management plan for the Reservation.

It should be noted that the Yakima Indian Reservation is a sovereign nation and is considered as private land for the purposes of compliance with the Act. However, since the Bureau carries out the timber sale program on the Reservation for the Tribe, the timber sales and related activities are subject to Section 7 consultation.

Information considered in the evaluation of this consultation includes the assessment of impacts to spotted owls and spotted owl habitat prepared by the Tribe and the Yakima Indian Reservation Forest Management Plan, the Yakima Indian Nation's Interim Spotted Owl Management Plan, and environmental evaluations for the specific timber sales (also prepared by the Tribe). Additional information was obtained from the Interagency Scientific Committee (ISC) Conservation Strategy for the Spotted Owl (Thomas, et al., 1990); the Northern Spotted Owl Status Review (USDI 1987); Northern Spotted Owl Status Review Supplement (USDI 1989); 1990 Status Review Northern Spotted Owl (*Strix occidentalis caurina*) (USDI 1990a); Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Northern Spotted Owl (USDI 1990b); Procedures Leading to Endangered Species Act Compliance for the Northern Spotted Owl (USDI 1990c); and information contained in our files.

Site visits to the Reservation were attended by representatives from the Regional Office and Olympia Field Office of the Fish and Wildlife Service (Service), Bureau, and Tribe. An overflight of the Reservation by fixed wing aircraft was conducted by the group to observe known spotted owl areas and past timber harvest activities. The flight was followed up with a ground reconnaissance of the Reservation to view past and ongoing timber harvest activities and to observe representative habitats located on the Reservation.

Recent consultations involving the spotted owl were completed for the U.S. Forest Service's Region 6 pre-Section 318 (USDI 1990d) and Section 318 (USDI 1990e) timber sale programs on July 23, 1990. Because of the extensive biological and ecological information on spotted owls contained in these reports, sections of this opinion refer to these documents in order to shorten the length of this opinion while maintaining its comprehensive nature. Copies of the aforementioned opinions are enclosed for your reference.

Potential impacts to other listed threatened or endangered species and candidate species were addressed in the environmental evaluations that were prepared by

the Tribe. The Bureau has determined that these projects are not likely to adversely affect these species.

Biological Opinion

It is the biological opinion of the U.S. Fish and Wildlife Service that ongoing and proposed 1991 timber harvest activities on the Yakima Indian Reservation are not likely to jeopardize the continued existence of the northern spotted owl. Timber harvest activities are expected to adversely affect this species and incidental take of individual owls is likely to occur within acceptable levels. Further discussion and analyses of these actions are included later in this document.

Project Description

The Yakima Indian Reservation is located in southcentral Washington State, east of the Cascade Mountains crest, in the counties of Lewis, Klickitat, and Yakima. The crest forms the Reservation's western boundary, Ahtanum Creek the northern boundary, Yakima River the eastern boundary, and Horse Heaven-Simcoe Mountains the southern boundary. The Reservation includes the east slope of Mt. Adams, which serves as a good reference point; the entire Reservation descends in elevation and extends eastward from this landmark.

Topography on the Reservation ranges from 5,000 to 7,000 feet above sea level along the Cascade crest (12,276 feet at Mt. Adams) descending to near 1,500 feet near the Yakima River.

Vegetation, like topography, varies as one travels from higher to lower elevation across the Reservation. Forested lands occur from near 6,000 to 6,500 feet elevation at timberline to a lower limit of about 2,000 to 2,500 feet elevation. A succession of tree associations occurs from areas of higher elevation and higher precipitation to areas of lower elevation and correspondingly lower precipitation (i.e., from upper slope lodgepole pine/subalpine fir/true fir-mountain hemlock, to ponderosa pine/Douglas fir/mixed conifer, to pure ponderosa pine, and finally to Oregon oak/ponderosa pine). The landscape changes from forest to grassland/sagebrush at lower elevations where xeric conditions prevail.

Of the 589,343 acres of land that comprise the administrative forest boundary of the Reservation, approximately 493,000 acres are forested. Of this amount, about 355,000 acres are classified as commercial timber. There is a total of 211,000 acres that are now considered to be spotted owl habitat.

Five ongoing and one proposed timber harvest sales are the subject of this consultation. Five sales currently being harvested have units within the median home range of owl pairs (a 1.8-mile radius circle). These sales and the acreages impacted are depicted in Table 1. One sale (Upper Clearwater) has been advertised but not awarded and is included in Table 1. Ten sales are proposed in 1991 (Table 2). Eight of these sales have been surveyed for spotted owls with no response, but their harvest would remove habitat suitable for spotted owls. These sale areas will be surveyed again prior to harvest, along with the two sales that have not been surveyed.

Table 1. On-going timber sales.

	Total Sale Area	Suitable Habitat Within Sale Area	Total MMBF
Jungle Butte	8,148	2,421	55.1
Graham Springs II*	1,580	1,335	12.1
Kinney Creek	5,381	1,328	36.1
Upper Clearwater**	3,548	2,204	15.0
Toppenish Ridge #4*	4,664	3,133	31.5
Icksix II	4,443	2,051	31.2

* Logging mostly completed.

** Approved for sale.

Table 2. Proposed 1991 timber sales.

	Total Sale Area	Suitable Habitat Within Sale Area	Total MMBF
Piscoe Creek II	6,901	4,711	36.6
Wahnum	6,656	2,700	30.0
Graham Springs II	2,750	1,451	10.5
Lake Beds II	3,517	1,860	12.0
Yatama Creek II	7,619	4,292	38.0
Hoppers SW	1,081	123	5.0
Huckleberry Creek	924	784	6.5
Lincoln Plateau II	1,189	668	7.2
Pile-up Creek	4,555	3,287	32.5
McCreed Lodge Pole	3,427	1,360	25.0

Timber harvest on the Reservation is selective tree removal under uneven-age management. Unlike clear cut harvest, where all timber is removed from a unit, the Reservation is managed so that 60 to 70 per cent of the standing timber volume will remain after harvest. Reentry into the sale area would not occur again for 15 to 20 years. While the size of the timber sales are considerable, only individual trees or pockets of timber less than 5 acres in size are randomly removed at any one location. The overall effect to the landscape after harvest is the retention of remnant forest characteristics. Since the areas are not clearcut and selection is random, it is impossible to equate the projected changes in habitat in acres.

Species Account

As stated previously, the attached Forest Service consultations contain a comprehensive biological and ecological review of the spotted owl that are applicable to this biological opinion. There are differences in the vegetative composition and habitat used by spotted owls on the east side from that on the west side of the Cascade Mountains crest. Most research to date has been conducted on the west side of the crest. Without research on the east side of the crest, the differences between the type and amount of habitat used by owls are only speculative. Research is currently under way to study spotted owl use of east side habitat, the amount of habitat that comprises an owl's home range, prey items and nest structure. However, it is too soon to determine whether some of the observed differences in selection of habitat and nest structure by owls on the east side are related to preference or due to west side superior habitat type being generally unavailable at many eastside locations.

The use of platform nests in mistletoe clumps by owls on the east side is an example of one difference. West side owls display a preference for nest sites in cavities or broken tops of the larger, more decadent timber. The frequency and duration of inclement weather on the west side may be a factor in owls selecting more sheltered nesting sites. Since the east side is dryer than the west, a less sheltered nest site may be acceptable. On the other hand, the less sheltered nest structures may be used because a larger, more decadent tree stand may not be available due to extensive timber harvest or because a dryer climate, past fire regime, or poor growing site does not promote the development of larger trees.

Effects of the Proposed Action

Selective harvest, uneven-age management, of timber lands on the Reservation are not necessarily beneficial to the spotted owl. Selective harvest has less impact on the habitat than a clear cut action in that only individual trees or small pockets of trees are removed. There simply are no data to ascertain the overall impacts of this management on spotted owl occurrence and productivity, or its food supply. When small openings are made in stands of mature timber, it is unknown whether or not owls would continue to use these areas or avoid them. Available data suggest that for spotted owls, being an interior forest species that prefers a dense canopy and avoids open areas such as clear cuts, even small openings would not be beneficial. When comparing the landscape on adjacent state, private and Federal lands, however, it is readily apparent that the uneven age timber management conducted on the Reservation has maintained a more

contiguous forest landscape, albeit with small isolated openings scattered throughout the forest matrix. This type of management may maintain useable owl habitat adjacent to small openings. Indeed, the opposite is true on adjacent private, State, and Federal lands where timber harvest has resulted in highly fragmented mature forests, rendering remaining forests as small, isolated refugia surrounded by open areas of clear cuts or young trees.

Because of the spotted owl's requirement for large areas of contiguous mature (suitable) habitat, the Tribe's approach of uneven age, limited entry management on an overall landscape basis may retain spotted owl habitat values. From this standpoint, the Tribe's timber management more than meets the ISC's 50-11-40 rule (retaining 50% of the forest landscape within each quarter-Township, with trees at least 11 inches dbh and 40% canopy closure).

As stated previously, it is unknown how selective, uneven-age management affects owl use of habitat within an owl territory or in a local area. There is concern for this type of timber management within owl territories. Owl territories are defined as areas occupied by an owl pair, or a resident single owl (response by one owl but no response from an owl of the opposite sex) that has been located within the same general area three times or more within a breeding season or multiple responses over several years. Specifically, as referred to in the Service guidelines for avoiding take, activities that would further reduce the amount of suitable habitat within the median home range (1.8 miles) of owls below 40% (2523 acres), or where suitable habitat would be reduced below 500 acres within 0.7 mile of a nest or activity center, or where the immediate core area is reduced below 70 acres of the best spotted owl habitat, should be avoided.

Table 3 depicts the amount of remaining habitat within the critical parameters of each of the five owl-pair territories affected by ongoing timber sales. It is impossible to equate the acreage of habitat expected to be lost from timber harvest since the sites will not be clear cut (40% of the standing volume of timber will be removed). Depending upon the quality of the stand to be harvested, dispersal habitat would probably be retained, but the site may or may not retain foraging value depending upon the degree of canopy closure, the number of large trees and the amount of dead and down material remaining after harvest. The structure and quality of habitat located immediately adjacent to the manipulated site could also influence the usefulness of these adjacent areas to owls. Since the harvested areas are small and isolated, the large scale fragmentation of habitat that is inherently created by clear cut harvest is not expected to occur. Only one ongoing sale (Jungle Butte) is in a situation where the landscape is highly fragmented and the amount of suitable owl habitat is below 40% within this pair's median home range. Increased harvest within this territory could disrupt the Jungle Butte owls' essential breeding, feeding and sheltering behaviors.

All of the ongoing sales that impact owl territories (Table 3) except Icksix 11, would involve harvest within the 70-acre core of the nest site or activity center. The Tribe has calculated that the five pairs of owls affected are already short of containing the needed 70-acres to buffer the nest sites or activity centers. Further reduction in habitat could reduce a pair's ability to procure food, increase the potential for predation, and reduce the chance for juvenile owls that have fledged from the nest to mature and disperse from the territory.

Table 3. Acres of habitat with spotted owl territories affected by on-going timber sales.

Owl Pairs	1.8-Mile Radius (6600 acres)	0.7-Mile Radius (1000 acres)	70 Acres (core area)
Jungle Butte	1080	290	51.5
Toppenish Ridge IV East	3437	710	60
Toppenish Ridge IV West	4001	562	48
Graham Springs II	3743	725	42
Upper Clearwater	4237	811	64
Icksix 11* (Cold Creek pair)	5226	713	59

* Only 200 acres of the 1.8-mile radius is affected by on-going timber harvest. All other territories may expect a 40% reduction in standing timber volumes within the 1.8-mile radius, 0.7-mile radius, and the 70-acre core area.

Two pairs of owls are affected by timber sales within 0.7 mile of their activity centers or nest sites. The Jungle Butte pair is already below the 500 acres of suitable habitat needed to maintain the integrity of the site and the Toppenish Ridge West pair is just above 500 acres of suitable habitat before harvest.

Planned Sales

Ten timber sales are planned for 1991. All but two of these sales have been surveyed for spotted owls with no response recorded at any site. All sites will be called again before they are sold. Although no owls are known to occur at these planning areas, owl habitat will be harvested. An eleventh sale is proposed for the harvest of lodgepole pine. However, this sale is not expected to affect owl habitat. Additional sales are planned for 1992 through 1994, but no information was provided on the effect of these actions to spotted owls, and therefore these sites are subject to future Section 7 consultation.

Spotted Owl Management Plan

A spotted owl management plan for the Reservation was prepared by the Tribe and was approved and adopted by the tribal council on May 11, 1990. The plan reserves from development about 157,000 acres of land. Approximately 115,000 of these acres are forested and withdrawn from timber harvest. Included in this set aside are, at a minimum, about 52,000 acres of suitable spotted owl habitat.

The areas set aside were established for other purposes, but their intended management and exclusion of timber harvest in those areas with suitable habitat will benefit the spotted owl. These areas are fairly contiguous and connective to one another and include the following: a primitive area; alpine areas; Mt. Adams Wilderness-Track "D" Recreation Area; watershed reserves; special use areas (cultural, recreational, historical, or education sites); visual corridors; and riparian zones.

On forested lands outside of the reserve areas the plan calls for: (1) seasonally restricting timber harvest within one-half mile of an active spotted owl nest or activity center from February 1 through August 31 (harvest could commence from September 1 through January 31); (2) managing to maintain large-size class Douglas fir trees (> 20-inch dbh) within one half-mile of a spotted owl nest or activity center; (3) the Interagency Spotted Owl Committee's 50-11-40 rule being met or exceeded since only selective tree harvest will be implemented on the Reservation; and (4) all proposed timber sales being completely surveyed six times for spotted owls between March 1 and August 31.

The spotted owl plan further commits the Tribe to inventory the Reservation for spotted owls and to initiate long-term demographic monitoring studies and intensive habitat utilization studies.

The spotted owl plan as described will benefit the species by maintaining blocks of contiguous suitable habitat. This could maintain connectivity throughout the forested area of the Reservation as well as connect Habitat Conservation Areas (HCAs) located on Forest Service Lands to the north (HCA W-12) and south (HCA W-1) of the Reservation. Retention of the reserve areas in their present condition as addressed in the plan would somewhat ameliorate the regional impacts to spotted owls on the Reservation from timber harvest and other forms of habitat destruction.

One drawback of the plan is that owl population size on the Reservation is unknown. To date the major effort to survey for owls has been directed at timber sales. No systematic survey of the Reservation has been attempted.

Another concern is the disproportionate amount of suitable habitat set aside by the plan. The 52,000 acres of owl habitat set aside is less than 25% of the approximate 211,000 acres of available owl habitat found on the Reservation. This may be sufficient to maintain a viable population of owls, depending upon the distribution of the suitable habitat and the distribution and number of owls on the Reservation, the quality of the habitat both in and outside of the reserved lands, and the overall impacts of the timber program on the occupancy and productivity rates of owls located outside of the reserved lands. These questions may only be answered through long-term monitoring and demographic research (radiotelemetry investigations) of the spotted owl population throughout

the Reservation. It is the understanding of the Service that the Tribe has received funding to initiate these investigations.

Interrelated and Interdependent Effects

Regulations implementing Section 7 of the Act require the Service to consider the effects of activities that are interrelated and interdependent of the proposed Federal Action (50 CFR Section 402.02). The Act defines interrelated activities as those projects which are part of a larger action and depend upon the larger action for their justification, and interdependent activities as those projects which have no independent utility apart from the action that is under consideration. Both interdependent and interrelated activities are assessed by applying the "but-for test," which asks whether any action and its associated impacts would occur "but for" the proposed action.

Roads are interrelated to the timber harvest activities and, once constructed, are used for other purposes besides accessing and removing timber. Approximately 20 miles of roads are built on the Reservation annually. The volume of timber removed from road construction are included in the timber sale volume. Most timber sales are readily accessible by existing roads since the Reservation has a high density of 4.5 miles of roads per square mile. The Bureau maintains about 700 miles of primary roads and about 800 miles of secondary roads.

Cumulative Effects

Cumulative effects are those effects of future state or private activities not involving Federal activities that are reasonably certain to occur within the area of the Federal action subject to consultation. Future Federal actions will be subject to the consultation requirements established in Section 7 of the Act and, therefore, are not considered cumulative to the proposed action.

Private and state timber activities are occurring north and south of the Reservation. A large portion of tribal lands are intermingled with state and private lands on the southern portion of the Reservation. The Jungle Butte owl pair has 986 acres of forested non-tribal lands located within a 1.8-mile radius of its activity center. Since combined habitat of both tribal and non-tribal lands (2,066 acres) is below the 40% median amount of suitable habitat, any private harvesting of suitable habitat within this radius would be subject to the Service's take guidelines, and could be permitted only after Service consideration and approval of a Section 10 permit application filed in conjunction with a Habitat Conservation Plan by either the private land owner or state permitting agency (Washington Department of Natural Resources).

Other state and private lands intermingled with or adjacent to the Reservation are subject to the provision of "take" under Section 9 of the Act as defined by Service guidelines and would require the completion of the Habitat Conservation Plan process if taking of an owl would occur.

Incidental Take

Section 9 of the Act and the regulations issued thereunder prohibit the taking of a listed species without special exemption. The term "take" is defined in the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture,

or collect, or attempt to engage in any such conduct." Under the terms of Section 7(b)(4) and 7(o)(2), taking that is incidental to, and not the purpose of, the agency action is not considered prohibited taking within the bounds of the Act, provided that such taking is in compliance with the terms and conditions of this incidental take statement. Furthermore, the Service must conclude that such taking could occur without violation of Section 7(a)(2) of the Act.

"Harass, as defined in regulations implementing the Act, means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering (50 CFR 17.3).

"Harm", as defined in the regulations implementing the Act, means any act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

"Incidental take" is defined in 50 CFR 402.02 as taking that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by the Federal agency or applicant. Exemption of Federal actions from incidental take of spotted owls under Section 7 must pass two tests: (1) the anticipated level of take must not violate Section 7(a)(2) by being likely to jeopardize the continued existence of the owl; and (2) taking that occurs must be in compliance with the terms and conditions specified in this written incidental take statement as directed by Section 7(a)(2).

The Service is required to use the best scientific and commercial data available when reviewing actions under Section 7 of the Act. Incidental take guidelines for the northern spotted owl were established on July 11, 1990, using the most current home range and habitat use data available. Those data were presented in the ISC Conservation Strategy for the Owl (Thomas et. al., 1990), the 1990 Status Review (USDI 1990a), and the Service's Procedures Manual (USDI 1990c).

The Service anticipates that incidental take (harass) attributable to the proposed action would result from the loss of suitable owl habitat within the estimated home range of a resident owl or owl pair (a 1.8-mile radius circle in the Washington Cascades Province) to an amount that is less than 40% of that home range (approximately 2,523 acres). Based on the best information currently available on spotted owl use of the project area, we anticipate the harassment of one pair of owls (Jungle Butte pair) from ongoing timber harvest activities.

Project implementation would reduce the amount of suitable habitat within 1.8 miles of the Jungle Butte pair below 1,080 acres on tribal lands and below 2,066 acres on all ownership. This loss of habitat may reduce the productivity of the pair and through increased fragmentation (because of past clearcutting on adjacent private lands) may result in increased predation and competition. Given that the owl pair currently has less habitat than the minimum required to avoid take, project implementation would result in take under the Act. The Service has determined that this action may create a likelihood of injury to the owl pair by harassing it to such an extent as to significantly disrupt normal behavioral patterns such as breeding, feeding, or sheltering.

The Service anticipates that incidental take attributable to the proposed action would result from the loss of suitable habitat to below 500 acres within the 0.7-mile radius of the nest site and/or within the 70 acre core area surrounding the nest site or activity center. Studies indicate that sites with greater than 500 acres of suitable habitat within a 1,000 acre area (0.7-mile radius) are more likely to be occupied than areas with less than 500 acres. An analysis in the USDI 1990 Status Review using Forest Service monitoring data of randomly selected 1,000-acre sites, showed that the average number of owls/site, the number of pairs/site, and the number of young/site all increase steadily as the amount of older forest increases. In addition, the mean area utilized by pre-dispersing juveniles is about 70 acres. Based on the best information currently available on spotted owl use of the project area we anticipate the harm of five pairs of owls (Jungle Butte, Toppenish Ridge east, Toppenish Ridge west, Graham Springs and Upper Clearwater) due to ongoing timber harvest activities. The Jungle Butte pair is affected by habitat loss within both the 0.7 mile-radius and the 70-acre core.

Project implementation would reduce the amount of suitable owl habitat within the 0.7-mile radius and the 70-acre core area of the Jungle Butte pair below 290 acres and 51.5 acres of remaining habitat, respectively. This loss of habitat may reduce the productivity of the pair, may reduce potential for juveniles to reach dispersal age, and because extensive clear cutting has occurred on adjacent private lands thereby increasing fragmentation, may result in increased predation and competition. The project would also reduce the amount of suitable habitat within the 70-acre core below the remaining acres of habitat of the following owl pairs, as indicated: Toppenish Ridge east (60 acres); Toppenish Ridge west (48 acres); Graham Springs (42 acres); and Upper Clearwater (64 acres). Up to 40% of the standing timber volume would be removed from these core areas. Because no clear cutting will occur, it is impossible to assess the amount of acreage that would be affected. However, additional reduction in habitat quality within these core areas could reduce the potential for juveniles to reach dispersal age.

To assist you in meeting your responsibility to minimize incidental take for ongoing timber sales, we have provided the following reasonable and prudent measures to be implemented as a project feature:

1. Avoid additional fragmentation of habitat within the 1.8-mile radius of the Jungle Butte pair.
2. Maintain as much of a closed canopy within the 0.7-mile radius and the 70-acre core area as possible.
3. Prevent disturbance to owl pairs and/or their progeny during the breeding season.

To implement these reasonable and prudent measures, we hereby establish the following mandatory terms and conditions:

1. Selectively remove trees to avoid opening the denser stands of timber. Attempt to retain a 60% or greater canopy closure.

2. Selectively remove trees within the 0.7-mile radius and 70-acre core so that openings are minimized. To the maximum extent possible, avoid harvest within the 70-acre core. Maintain large Douglas fir trees that are 20 inches dbh or greater. Retain as much of the large dead and down timber as possible.
3. Within the 0.7-mile radius and 70-acre core area, prohibit harvest during the breeding and nesting season from March 1 through September 30. Harvest could proceed after July 1 if it has been determined that nesting was unsuccessful.

From the best information available it appears that take will not occur from the timber sales proposed for release in 1991. However, since not all of these sales will be harvested in the same year that they are sold, the sites should be surveyed up until (and including) the year that they are harvested. Owls found within 1.8 miles of future timber sales should be presented to the Service for possible reinitiation of consultation. To avoid additional formal consultation, all planned sales must comply with the Service's guidelines for avoiding incidental take. Sales should be planned so that at least 40% suitable habitat within the median home range (1.8-mile radius circle) of single residential owls or pairs of owls is maintained, at least 500 acres of suitable habitat is retained within 0.7 mile of an owl's nest or activity center, and at least 70 acres of the best suitable habitat is retained within the core area of a nest site or activity center.

If more than the above mentioned anticipated level of take occurs (more than five pairs of owls), the Bureau shall require within its authorities that the causative action of such take cease immediately, and shall reinitiate formal consultation to reevaluate the incidental take impacts. Implementation of the proposed action is not expected to result in the direct mortality of any spotted owl. However, any dead or injured spotted owl found in the project area shall be reported as soon as possible within 24 hours to a special Federal Agent of the Service, Division of Law enforcement, at 206/442-5543, (FTS) 399-5543 or to the Olympia Field Station at 206/753-9440, (FTS) 434-9440.

Conservation Recommendations

Sections 2(c) and 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of listed species. The term "conservation recommendations" has been defined as suggestions by the Service regarding discretionary measures to minimize and avoid adverse effects of a proposed action on listed species or critical habitat. The Service offers the following conservation recommendations:

1. Continue to strengthen the spotted owl plan by obtaining Reservation-wide information on owl occurrence, refined habitat delineation both within and outside reserve areas, and owl habitat use and preference in both harvested and unharvested areas. The Plan should demonstrate that the amount and distribution of habitat in reserve (52,000 acres of suitable owl habitat) is sufficient to maintain longterm viability of spotted owls on the Reservation. Perhaps most important, the plan should analyze and describe how its implementation would contribute to the recovery of the spotted owl.

2. As stated by the Tribe in the biological assessment, commit to a longterm investigation of spotted owl demography and ecology on the Reservation. Radiotelemetry should address the effects of current timber harvest methods on spotted owls.
3. Establish and implement a method for managing spotted owls and their habitat on those Reservation lands intermingled with state and private lands and on border lands with the Forest Service.
4. Continue implementing the interim spotted owl plan on timber harvest, conducted in accordance with the Service's guidelines for avoiding take, until the final spotted owl plan for the Reservation can be validated through Section 7 consultation. Approving the plan through consultation would have distinct advantages to both the Tribe and the Bureau. Future Federal and Tribal activities would not require additional Service input as long as the activities were carried out in accordance with an approved Spotted Owl Plan.

In order for the Service to remain informed of actions that either minimize or avoid adverse effects or benefit listed species or their habitat, the Service requests notification, in writing, of the implementation of any conservation recommendations.

This concludes formal consultation on this action. Reinitiation of formal consultation is required if the amount or extent of incidental take is exceeded, if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion, if the action is subsequently modified in a manner that caused an effect to the listed species that was not considered in this opinion, or if a new species is listed or critical habitat designated that may be affected by the action. If you have any questions regarding this biological opinion, please contact Jim Michaels of my staff at the letterhead phone/address.

Sincerely,



David C. Frederick
Field Supervisor

jlm/gb

Attachments

c: FWS, Portland (RO-Findlay, Hill)
FWS, Portland (RO/SE-Mulder)
FWS, Moses Lake
FWS, Portland (PFO)
FWS, Sacramento (SFO)
LE, Seattle (McDonald)
Yakima Indian Nation (Hanson)

LITERATURE CITED

- Thomas, J.W., E.D. Forsman, J.B. Lint, E.C. Maslow, B.R. Noon, and J. Verner. 1990. A conservation strategy for the northern spotted owl. A Report by the Interagency Scientific Committee to address the conservation of the northern spotted owl. U.S. Department of Agriculture, Forest Service, and U.S. Department of the Interior, Fish and Wildlife Service, Bureau of Land Management, and National Park Service. Portland, OR. 427 pp.
- U.S. Department of the Interior. 1987. The northern spotted owl status review. Fish and Wildlife Service. Portland, OR. 47 pp.
- U.S. Department of the Interior. 1989. The northern spotted owl; a status review supplement. Fish and Wildlife Service. Portland, OR. 113 pp.
- U.S. Department of the Interior. 1990a. 1990 Status Review: northern spotted owl; *Strix occidentalis caurina*. Report to the Fish and Wildlife Service. Portland, OR. 95 pp.
- U.S. Department of the Interior. 1990b. Endangered and threatened wildlife and plants; determination of threatened status for the northern spotted owl; final rule. 50 CFR Part 17, Federal Register, June 26, 1990. Pages 26114-26194.
- U.S. Department of the Interior. 1990c. Interim procedures leading to Endangered Species Act compliance for the northern spotted owl. Fish and Wildlife Service, Portland, OR. 34 pp.
- U.S. Department of the Interior. 1990d. Formal Consultation on the U.S. Forest Service timber sales awarded prior to the Section 318 timber sale schedule. Fish and Wildlife Service. Portland, OR. 33 pp.
- U.S. Department of the Interior. 1990e. Formal Consultation on the U.S. Forest Service timber sales, Section 318 timber sale schedule. Fish and Wildlife Service. Portland, OR. 32 pp.
- Yakima Indian Nation. 1988. Forest Management Plan, Yakima Indian Reservation, Washington, Planning Period 1983-1992. Yakima Indian Nation. Toppenish, WA. 124 pp.
- Yakima Indian Nation. 1990. Yakima Indian Nation's Interim Spotted Owl Management Plan. Yakima Indian Nation. Toppenish, WA. 6 pp.

Enclosure 2



YAKIMA INDIAN NATION
SPOTTED OWL




MANAGEMENT PLAN




**Confederated Tribes and Bands
of the
Yakima Indian Nation**

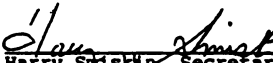
ADOPTION OF
INTERIM PLAN


WHEREAS, the Yakima Indian Nation Timber Committee and the Yakima Indian Nation Fish & Wildlife Committee have met, pursuant to Resolution T-10-61, jointly to consider an interim plan for the management of the Northern Spotted Owl, and have approved such a plan pursuant to a Timber Committee Action and a Fish & Wildlife Committee Action. The following Interim Spotted Owl Management Plan shall serve as an interim measure to manage the resources of the Yakima Indian Nation in a sound manner, while also providing for the economic welfare of the Yakima Indian Nation and its members, until such time as superseding action is taken by the Yakima Tribal Council


Elmer Schuster, Chairman 5/11/90
Yakima Indian Nation
Fish & Wildlife Committee

 5/11/90
Virgil James, Chairman
Yakima Indian Nation
Timber Committee

ATTEST:

 5/11/90
Harry Spiskin, Secretary
Yakima Indian Nation
Fish & Wildlife Committee

 5/11/90
Cecil Sanchey, Secretary
Yakima Indian Nation
Timber Committee



FISH, WILDLIFE, AND LAW & ORDER COMMITTEE OFFICIAL ACTION

DATE: MAY 11, 1990TOPIC: SPOTTED OWL MANAGEMENT PLAN
☐ FISH ☒ WILDLIFE ☐ LAW & ORDER
ACTION REQUESTED: REVIEW "YAKIMA INDIAN NATION SPOTTED OWL MANAGEMENT PLAN"

FORMAL ACTION TAKEN: WE HAVE REVIEWED AND ADOPTED THE "YAKIMA INDIAN NATION SPOTTED OWL MANAGEMENT PLAN". WE RECOMMEND THE IMMEDIATE IMPLEMENTATION OF THE PLAN BY ALL Y.I.N. AND B.I.A. PROGRAMS. This action is in cooperation with Timber, Grazing Overall Economic Development Committee Action;

28-1990DECISION: APPROVED ☒ DISAPPROVED ☐ TABLED ☐VOTE: TOTAL 4 FOR 3 AGAINST 0 ABSTAINED 0

MEMBERS	COMMITTEE ACTIVITY			
	ROLL CALL (P/A)	MOTION	SECOND	VOTE (F/A)
ELMER SCHUSTER C	P			
HARRY SMISKIN S	P			For
LEVI GEORGE M	P		X.B.	For
WILFERD YALLUP M	P	Wry.		For
EX OFFICIO:				

OTHERS PRESENT: _____

Chairman

COMMITTEE ACTION NUMBER: #076-89'90



**TIMBER, GRAZING, OVERALL
ECONOMIC DEVELOPMENT COMMITTEE
OFFICIAL ACTION**

DATE: May 11, 1990

TOPIC: SPOTTED OWL MANAGEMENT PLAN

☒ TIMBER ☐ GRAZING ☐ ECONOMIC DEVELOPMENT

ACTION REQUESTED: REVIEW "YAKIMA INDIAN NATION SPOTTED OWL MANAGEMENT PLAN"

FORMAL ACTION TAKEN: WE HAVE REVIEWED AND ADOPTED THE "YAKIMA INDIAN NATION SPOTTED OWL MANAGEMENT PLAN." WE RECOMMEND THE IMMEDIATE IMPLEMENTATION OF THE PLAN BY ALL Y.I.N. AND B.I.A. PROGRAMS. This action is in cooperation with Fish, Wildlife and Law and Order Committee Action # 076-89-90

DECISION: APPROVED ☒ DISAPPROVED ☐ TABLED ☐
VOTE: TOTAL 4 FOR 0 AGAINST 0 ABSTAINED 0

MEMBERS	COMMITTEE ACTIVITY			
	ROLL CALL VPM	NOTION	RECORD	VOTE (Y/N)
VIRGIL JAMES — C				
CECIL SANCHEY — S	P		ce	For
HARRY SMISCON — M	P	HTB		For
HARVEY ADAMS — M	P			F
EX OFFICIO:				
	PRESENT			PRESENT

OTHERS PRESENT: _____

CERTIFICATION: *Virgil James*
Chairman

COMMITTEE ACTION NUMBER: #28-1990

ROUTING: Chairman
Secretary
Members

INTRODUCTION

Since time immemorial, Yakima Indians have managed the natural resources of their territory according to sound practices which preserved the resources while at the same time protected the welfare of the people. That remains true today. Because of these sound practices, such as selective timber cutting and preservation of habitat, it is not clear that the Northern Spotted Owl is imperiled on the Yakima Reservation. Research is needed on this subject. While such research is going on it is prudent to adopt an interim measure.

BACKGROUND

The Yakima Nation Land & Natural Resources Plan (T-92-87) states the wildlife goals of the Yakima Nation as being, in part:

1. Protect, maintain and enhance habitat such that viable populations of native species are conserved.
2. Manage habitat to promote species diversity and maintain ecological systems.
3. Control habitat altering uses and reduce the negative or destructive effects of human activities on wildlife habitat zones.
4. Systematically identify critical habitat areas for protection purposes.

To effectuate these goals, T-92-87 states that "the Yakima Indian Nation shall manage its wildlife resources so as to implement the following policies." Some of these applicable policies are:

1. Forage and habitat protection in range, forest and agricultural zones through wildlife management plans that establish target populations and protection measures, per species.
2. Critical habitat and species identification and protection, with a priority focus on big game animals.
3. Development and maintenance of a Yakima Indian Nation threatened or endangered species list and measures for protection of endangered species.

4. Maintenance of refuges and preserves, including selected game preserves, seasonal preserves, selected area closures and controls over predation so as to increase game animals and protect selected wildlife species.
5. Continual monitoring, survey and research on wildlife species so as to provide information for long term wildlife protection and management plans.
6. Permit and lease stipulations on other land use authorizations to protect wildlife and habitat; this shall include a scoping and review process for major land use decisions, such as logging permits, to establish the potential impacts of these uses on wildlife habitat.

The Yakima Reservation Forest Management Plan (T-117-87) states a forest-wide goal of "providing quality habitat for viable populations of wildlife species." Under the Forest Management Plan, whenever federally listed threatened, rare, and endangered species are encountered, the following process will apply:

1. Notify the Tribal Natural Resource Division.
2. Determine if use of the habitat is incidental or essential.
3. Protect essential habitat through curtailment or modification of conflicting activities, seasonal restriction of activities, or avoiding the area."

The Forest Management Plan also states (Section M, Subsection (j)) that:

"Threatened and endangered species may exist in small population sizes on the reservation. However, little is known about their breeding populations or specific habitat requirements."

It says further:

"WITHIN the 10 year period that this management plan covers other threatened and endangered species may be found to occur in the forested lands. If additional species are found, revisions of the project schedule program will have to be made."

PRESENT MANAGEMENT

The administrative Forest boundary within the Yakima Indian

Reservation comprises 589,343 acres, of which 492,619 acres are forested. Of those forested acres, 355,196 acres are classified as commercial acres on which the Annual Allowable Cut is calculated. There are also 157,000 acres located within: (1) a designated "Primitive Area"; (2) "alpine" areas; (3) a wilderness recreation area; (4) watershed reserves; (5) "Special Use Areas"; (6) Visual Corridors; and (7) riparian corridors. The Forest Management Plan (T-117-87) severely limits, or disallows entirely, harvesting operations within these areas. Consequently, there is extensive suitable spotted owl habitat in protected status on our Tribal lands. The following is a brief description of each of those areas.

(1) Primitive Area - Located in the Northwest corner of the Yakima Indian Reservation, the Primitive Area is comprised of 35,960 acres, approximately 27,400 acres of which are suitable old growth habitat. It will not be managed for commercial timber production, but rather natural ecological succession and events will occur as freely as possible, provided adjacent lands are not endangered.

(2) Alpine Areas - The "Alpine" areas include high elevation areas above timberline and also extensive subalpine forested habitats in which spotted owls have been located. These areas will be managed for watershed protection and other non-commercial timber production uses. Timber will be harvested only due to catastrophic forest pathogen losses, or for special improvement projects such as huckleberry field enhancement. These areas total 37,218 acres, of which 30,726 acres are forested.

(3) Mount Adams Wilderness - Tract "D" Recreation Area This is an area of 16,891 acres on the slopes of Mount Adams. While most of this area is too high in elevation to support suitable spotted owl habitat, a reproductive

pair of spotted owls has been located within ½ mile of its eastern boundary. A total of 7,849 acres of forested lands exist in this area. The management guidelines for this area are to maintain it as a wilderness.

(4) Watershed Reserves - These areas are comprised of 50,892 acres of lands, with more than 32,600 acres of old growth forest stands along the major reservation waterways. The management emphasis in these areas is to maintain the vegetative characteristics needed for water quality protection. Timber harvesting will not be scheduled in these areas except as a necessary treatment due to catastrophic losses. All of these areas have habitat suitable for spotted owls, including the 25,000 acre Klickitat River Watershed Reserve.

(5) Special Use Areas - These areas are management sites or zones of traditional importance which vary in size and primary use. They have been identified as important cultural, recreational, historical, or educational areas. Each of them contains a protective buffer to maintain their essential undisturbed value, and they total 2,124 acres. Timber removal from them will generally be limited to hazardous trees.

(6) Visual Corridors - These corridors total 3,797 acres along selected travel routes of the reservation. Management in these areas emphasizes the maintenance of large old growth trees and vegetative diversity to enhance scenic quality.

(7) Riparian Zones - Buffered riparian zones total more than 10,000 acres of extremely diverse ecosystems within the managed forest. Much of this acreage is suitable spotted owl habitat. Management activities in these areas are typically very light, amounting to individual tree selection when that tree's removal would be non-damaging to the riparian zone. Riparian zones are

identified and buffered during the interdisciplinary team planning process for each proposed timber sale.

The seven areas mentioned above total approximately 157,000 acres, of which about 115,000 acres are forested. Based upon the forest cover types where spotted owl pairs have been located on the Yakima Indian Nation Reservation, approximately 52,000 acres of suitable spotted owl habitat currently receives managerial protection.

Current and past forest management within the Yakima Reservation stresses uneven-aged silvicultural techniques, specifically individual and group selection system harvesting. Consequently, the vast majority of the Reservation remains unfragmented and intact. Uneven-aged management results in multi-layered canopies throughout the stands, with variable-diameter trees and a rich diversity of overstory and understory species. The Yakima Nation prefers this style of management over the even-aged system, and it is anticipated that uneven-aged silvicultural practices will continue to be the management of choice into the future.

INTERIM SPOTTED OWL MANAGEMENT PLAN

The above goals, policies, and limitations shall be applicable to Tribal Lands and Allotted Lands in which greater than 50 percent ownership is held by the Tribe, and are hereby adopted as part of this Interim Spotted Owl Management Plan.

The following areas, as described in the previous section, are hereby designated as Yakima Indian Reservation Spotted Owl Habitat Preservation Areas.

1. Primitive Area
2. "Alpine" Areas
3. Mount Adams Wilderness - Tract "D" - Recreation Area
4. Watershed Reserves
5. Special Areas

6. Visual Corridors

7. Riparian Zones

THE FOLLOWING RESTRICTIONS SHALL BE FURTHER REQUIREMENTS OF THIS PLAN:

- I. Seasonal Restrictions: NO TIMBER HARVEST WILL BE ALLOWED WITHIN A ½ MILE OF A PAIR CORE AREA OR ACTIVE NEST FROM FEBRUARY 1 - AUGUST 31, INCLUSIVE;
- II. Harvest Restrictions: From September 1 to January 31, inclusive, WITHIN ½ MILE OF AN ACTIVE NEST OR PAIR CORE AREA, FOREST MANAGEMENT PRACTICES WILL MAINTAIN LARGE-SIZE CLASS DOUGLAS-FIR TREES.

Selective timber harvest techniques will be employed which maintain an uneven-age mosaic that promotes multi-dimensional and multi-layered stands which favor biological diversity. Typically, this will result in not more than 50% of the timber being harvested. All snags that are not hazards to human life shall be retained. Generally, slash will only be piled in landing areas. Scattered concentrations of down woody fuel facilitate nutrient exchange, promote soil fauna and flora, and enhance micro-habitats conducive to small mammal populations which spotted owls prey upon.

To further the implementation of this Plan, the Yakima Nation shall pursue studies of the Spotted Owl. The Yakima Indian Nation shall aggressively seek federal funding support to study the Northern Spotted Owl. Research needs are for increased Spotted Owl inventory efforts, long-term demographic monitoring studies, and intensive habitat utilization studies, via radiotelemetry both in areas of selective forest management and reserved areas. Such research would test the hypothesis that the uneven-aged forest practices employed on the Yakima Indian Reservation are not harmful to Northern Spotted Owls.

YAKIMA INDIAN RESERVATION FOREST MANAGEMENT UNITS



INFORMATION AS OF 5/22/90

Mr. MORRISON. Thank you, Mr. Chairman.

Mr. VOLKMER. Thank you.

The gentleman from Indiana.

Mr. JONTZ. Thank you, Mr. Chairman.

I think I would like to return to the line of questioning that the chairman was pursuing and look at some of those numbers.

That 5 and 5.2 billion board feet that were cut in 1989 and 1990 was at a time when demand was relatively high compared to 1991. Is that right? Basically the bottom went out of the housing market. During the period of 1989 and 1990 people were cutting timber that had been sold at relatively low prices in earlier years. So you had a good price for your product and a relatively low price for what you had bought the timber at. That's why people were cutting in 1989 and 1990. Is that basically correct?

Mr. BEUTER. No, not necessarily.

Mr. JONTZ. Would you explain?

Mr. BEUTER. All national forest timber is sold on competitive bids.

Mr. JONTZ. Right.

Mr. BEUTER. I happen to have done quite a bit of research in this area. The way people decide to bid on a sale is the combination of the competition that they're facing and their forecast of what markets are going to be. You're talking about the timber cut in 1988 and 1989 when we were coming out of a recession, and booming out of a recession, over that period. Most of these sales have a contract time of about 3 to 5 years, mostly 3 years, so people were forecasting increasing prices and they were bidding accordingly.

If you were to look at the bid appraisal ratio on most of those sales, you would find that they bid considerably above the appraised price.

Mr. JONTZ. Again, you're talking about sales that were made during 1989 and 1990.

Mr. BEUTER. No, sales that were cut during 1989 and 1990 which were purchased from 1986, 1987, and 1988, sometime in that period.

Mr. JONTZ. But the demand got weaker, and then people found themselves with timber that was relatively high for what they paid compared to what they could get for their final product. Is that right during that current time?

Mr. BEUTER. Sure. That's the normal ebb and flow in the timber industry.

Mr. JONTZ. I just want to try to reconcile those numbers.

Mr. Chairman, it's too bulky to put into the record, but the Forest Service has provided me a computer printout. This is 46 pages of timber sales. This is region 6. There will be a separate printout for region 5. This is 46 pages of individual timber sales that—well, this says as of May 1—constitutes 5.5 billion board feet. I know we can't put this in the record, but it might be of value in the committee's file.

This is a rather lengthy list of sales that have not been harvested. It is difficult for me to analyze the distribution of these sales without some effort, but I did want to note that this is available for the committee's consideration.

Chief, let me return to what you said about the forest plans, the level of sales under the forest plans, the level of harvest would be

about 3.4 billion board feet. That timber harvest in the national forest in region 6 ranged from 4.5 billion to 5.1 billion board feet per year in 1985 through 1989. Is that correct?

Mr. ROBERTSON. I think that's gross.

Mr. JONTZ. OK.

Mr. ROBERTSON. So if you want to compare that to the forest plans, the gross is about 4 billion.

Mr. JONTZ. The gross is about 4 billion. So basically there was anywhere from 500 million to 1 billion board feet a year that was cut for the years 1985 to 1989 above the level of the forest plan. Is that correct? Except the forest plans were not in effect at that time.

Mr. ROBERTSON. That's correct. We were following the previous plan.

Mr. JONTZ. So if we want to find out where the timber went that is not there this year, we should look back to 1985 to 1989 and examine the situation where we were cutting 500 million to 1 billion board feet more per year than what the plans would have allowed had they been in effect when they were supposed to be back in the early 1980's. Is that correct?

The answer is yes. In other words, had there not been political interference from the Secretary's office in the early 1980's withdrawing plans, there would have been 500 million to 1 billion board feet more timber available at this time that would not have been sold earlier for each of those years. Is that correct.

Mr. ROBERTSON. I wouldn't characterize that as correct because there were a lot of other factors other than the one that you quote. We had a lot of complications. We ran into problems on yield tables, we had inventory problems, so we did back up and make sure our plans were technically sound. All of those factors came to bear in region 6 that prevented us from, or slowed down the planning process.

Mr. JONTZ. But for each year during the 1980's, when those plans should have been in effect, there was as much as 1 billion board feet of timber cut in region 6 beyond what would have been the case had the plans been in effect in the early 1980's when they were supposed to be. Is that correct?

Mr. ROBERTSON. Congressman Jontz, I think it is a false premise to think that if we had completed these plans in 1985 we would have come to the same conclusion that we came to in 1990 because thinking keeps evolving. We keep learning more about the forest and when we do finally finalize a plan, we try to reflect the thinking at that point.

If you go back and look at 1985, a lot of the factors that caused these forest plans to be reduced to 3.4 would probably have not been accounted for, at least to the degree that they were, if we had finished these plans in 1985. The same is true today. The plans came out in 1990. If we redo them in 1995, there will be some differences. There will be some new thinking, new information. The plans never get caught up with all the thinking that goes on.

I think it's a false premise to say that if we completed the plans in 1985 we would have come to the exact same conclusion that we did come to in 1990.

Mr. JONTZ. I think you're probably correct, that it would not have been exactly the same conclusion, but certainly one has to ask why there have been these delays. For instance, the Dwyer decision says that there were 400,000 acres of spotted owl habitat logged in the 7 years since the Forest Service began preparing the guidelines for the owl, all without having a lawful plan or environmental impact statement for the owl management in place—7 years.

I'm not saying that it can happen overnight, but what the record shows is a continual delay, often because of political interference, as was in the record in this decision of Judge Dwyer. It just seems to me that we are paying a very heavy price today for those delays, for whatever the reasons.

Mr. ROBERTSON. Well, again, I wouldn't characterize it that way. We did have an environmental impact statement, and a spotted owl management plan based on the spotted owl habitat areas. It did reflect the thinking and the biological community at one period of time, and before we got that plan finalized, new biological thinking entered the picture and started changing that until we finally ended up with the interagency scientific committee. But the ideas in the interagency scientific committee that came out in 1990 were not the ideas and thoughts that were in the biological community back in 1986 and 1987 when we developed the one environmental impact statement that we have on spotted owls.

Mr. JONTZ. My time has expired.

Mr. VOLKMER. The gentleman from California.

Mr. HERGER. Thank you, Mr. Chairman.

I have just a general question for you, Mr. Turner.

First of all, I want you to know that I recognize the incredibly difficult, near impossible job, that you have under the Endangered Species Act, and with the court rulings that we have had, particularly that earlier this year when you came up with the 11.6 million acre designation. As I understand this act, it also requires us to come up with an economic impact report, which I understand it's in November or so that we are to have that available later on this year. Is that correct?

Mr. TURNER. Required by the act, and certainly something the administration wants to do, is a thorough economic analysis of the proposed critical habitat and the recovery effort that is going on.

We have put together a task force of economic and forestry specialists from our agency, the Forest Service, the BLM, the Bureau of Mines, Economic Counsel Advisors to the White House, and OMB. We will do an economic analysis on the next proposal, which will come out in August. That's a pretty quick time schedule, but we will do the best job in reanalyzing our biology and putting a good economic test to it, and then we'll have it out again for public comment. That economic analysis will continue as we approach the process of finalization of the rule, which we have scheduled for December.

Mr. HERGER. So the first indication we'll have an economic analysis will be in August. Is that what you're saying?

Mr. TURNER. When we come out with the second proposal for public comment, we hope to—and we admit that our resources, the time available in my agency, we did not have that expertise or the

time—but it is going to be a tough question, the economic analysis, because we're going to look at things that are not maybe more state-of-the-art than science in the whole economic arena as you look at overall costs of the proposal and the possible benefits, as the act asks us to do. It's tough for any economist, but I think we have a very capable and professional group working hard at that.

Mr. HERGER. At the time that you come up with this economic analysis, on the problem we have with the spotted owl and preserving the spotted owl, will your numbers be accumulative of the entire spotted owl issue, or will they be just a portion, for instance, estimated jobs lost?

Mr. TURNER. Congressman, the act asks us—when we weigh the final rule on critical habitat—to also weigh the cost of that additional burden of protection for the owl. So we must confine our attention to what is that added increment, its benefit, and its cost in relation to the owl. So that's the increment that we must—to make a fair and balanced decision—do.

It's a very legitimate question, as has been brought up here, but what are the overall costs of owl protection? What are the overall causes of the downturn in the timber industry? What has the owl protection cost, whether under court decisions through the National Forest Management Act, or whether it was under the Endangered Species Act? The task force that the Secretary has charged will look, as the law requires, in incremental additional conservation of critical habitat.

Mr. HERGER. I understand that the answer to my question is that it will not be accumulative or a total of the entire spotted owl problem that we have, rather only the increment of where we have moved, say, from the Jack Ward Thomas report out, or from that point on to now. Is that correct?

Mr. TURNER. That is correct.

Mr. HERGER. So in other words—and the basis for my asking these questions is that we in northern California, which represents more than a fourth of this 11.6 million acres that you have tied up, without showing an economic analysis at the same time—I understand that you're going to show it later—we feel that that is grossly unfair, grossly unbalanced. What we're looking for is some semblance of balance, something that we are not seeing in our timber communities.

I would like to have you answer this. How could it be termed as anything other than incredibly unbalanced and to come out with a partial analysis that would show a much smaller loss of jobs than what the entire issue should show? How are we as Members of Congress and those of us that are not representing these districts who are aware of the full impact—how are the rest of the Members of Congress supposed to come up with the adequate decisions that we must make when you're only giving us a small percentage of the economic impact, and giving it to us incrementally rather than accumulatively? Do you not agree that that is grossly unfair?

Mr. TURNER. Congressman, I agree with your question. I, too, would be intrigued with the answer of what the overall cost of owl protection has been to the Pacific Northwest. That would be of interest to me as well as to you and your constituents. But there has been a whole realm of those layers of protection, as you know.

The challenge for us—and I don't think it's a fair assumption to say the proposal is a tie-up at this point, although I know it is perceived as such—but when we have to weigh the acreage and the lines, we should base it on an economic analysis of that increment of protection. I would agree with you that an overall examination of the downturn in the timber industry, the costs, and the causes would be extremely worthwhile. We are working on a very short time schedule with a very large area with the proposed areas. So it is quite a challenge for the team we have assembled to try to answer that question.

Mr. HERGER. To again bring some semblance of balance and fairness to this, would it be that much more involved that as you come up with your incremental increase if you could add to it that this is in addition to these other X thousand of jobs that we've determined would be lost prior to this?

Mr. TURNER. Congressman, I think having visited with that team and looked at their faces at the task they were charged to do in a very short time, and then to go back and tell them to look at the whole arena of owl protection, some of which had nothing to do with the Endangered Species Act, some downturn that might have had nothing to do with the owls, and try to unsort those—I don't think this particular group should be charged with that. I agree that the question merits answering.

Mr. HERGER. I know my time is up.

Mr. Turner, that is not what I am asking, that we ask for the other downturns. I'm asking just specifically that we include the total that is attributed to the spotted owl issue. I think that's very fair and an equitable request. I would like a positive answer from you that you might include that.

Mr. TURNER. I will. I will take a step back and say that the committee will try to analyze some overall costs of owl protection, realizing that will be a different answer than the incremental question on critical habitat. That intrigues me, and I think our group would be willing, as best they are able within the time schedule, to give some estimates. We will try that.

Mr. HERGER. Thank you.

Mr. VOLKMER. The gentleman from Oregon.

Mr. KOPETSKI. Thank you, Mr. Chairman.

I am still curious about who is running the show. I thought Mr. Olin's questions were enlightening, but not as enlightening as I would like. I have heard comments that have said that when you folks have some problems you go over to the White House and check in with the administration. I got to go to the White House, too, and that was pretty special, but when you go to the White House, you must go to somebody's office. So whose office do you get to go to?

Mr. Beuter.

Mr. BEUTER. We discuss some of these ideas with the President's Domestic Policy Counsel.

Mr. KOPETSKI. Who is the Domestic Policy Counsel? I am still learning my way around Washington, DC.

Mr. BEUTER. The primary contact I have had is a fellow called Ed Goldstein.

Mr. KOPETSKI. Mr. Jamison.

Mr. JAMISON. Yes, it's in Roger Porter's shop. He is the Domestic Policy Advisor to the President, and it is in his shop that I work, too. Also, we both go over to OMB also. We work through Assistant Director Grady's branch usually.

Mr. KOPETSKI. So, there is this working group that meets on a regular basis?

Mr. BEUTER. Not to the extent that you're posing it. When it comes time to prepare testimony, such as this, it's a review to all those offices. It's hammered into a consistent——

Mr. KOPETSKI. And if an emergency comes up, or something critical like a Federal judge's decision, who do you check in with? Is it the same people that you alert to the problem or the impact?

Mr. BEUTER. The bulk of our time is spent in the Department of Agriculture with the Secretary of Agriculture and his staff. He is a much more direct liaison to the White House.

Mr. KOPETSKI. I see.

Well, do you think the White House understands—I mean the White House itself—that they understand the economic significance of this issue to the Pacific Northwest?

Mr. BEUTER. Yes, I think that's fair to say.

Mr. JAMISON. We are not muzzled in any way, shape, or form. We go over there and lay out—I've been in tours in the west, your area, and we report back what we see, what we hear, and what we think the impacts are.

Mr. KOPETSKI. If there is a tornado in the Midwest, with great ravage to homes, people, family, and the economy, the Vice President or the President would go out there and visit the area and at least do a fly-by. That's what is going on in the Pacific Northwest, and they're not doing the fly-by unless it's at 37,000 feet or something.

Some of us are very frustrated by this. Here are two States and northern California that are really on the ropes, on the brink of economic catastrophe in this significant industry on the one hand, and on the other there are real critical environmental issues that must be addressed. We're not getting the feeling out there that there is a sensitivity to the Pacific Northwest on the part of the White House over this issue.

Mr. BEUTER. I would emphasize, Mr. Kopetski, that I spend about a week a month—as do a number of people from the Fish and Wildlife Service and the Department of Interior working on the spotted owl recovery team—and we're out there. We have been in the woods in Washington, we've been in the woods in Oregon, and will be in the woods in California talking over these issues.

I think the administration is well aware of the situation out there and getting better informed all the time.

Mr. KOPETSKI. Dr. Beuter, I know you know the issue. It's the White House that I'm concerned about. We need to put in the Portland Trailblazer fashion a good fast break and running toward a solution to this issue in the next few weeks. The way I analyze this situation, that's what we need, at least for the transition period that is involved here. The President and the administration need to understand that this has to be on the front burner for the next couple of weeks so that we can get a temporary solution.

Mr. BEUTER. I believe that's already realized. I will convey it again on your behalf to the Secretary.

Mr. JAMISON. I don't know whether it's a Portland Trailblazers finish, but the Chicago Bulls and the Lakers were right in there, too.

Our Secretary is very well aware. He has brought it up at Cabinet Council, I know that. The White House is well aware of what is going on, and we wouldn't be here saying what we are unless that was the case.

Mr. KOPETSKI. I hope that maybe we could invite the President and the Vice President out to the Pacific Northwest in the next few weeks to visit Estacada, Oregon, where I was yesterday, and visit a mill and walk in the woods and see the mill and the wonderful forests we have. We have some great golf courses and fishing. Either one of them—we'll take him out there and take him fishing and show him the woods and have a good time.

Thank you, Mr. Chairman.

Mr. VOLKMER. Before I recognize the other gentleman from Oregon, I would like to announce that the subcommittee is not going to break for lunch. When we finish this panel, we will go to the next panel.

I am now going to recognize the gentleman from Oregon.

Mr. SMITH. Thank you, Mr. Chairman.

Jack Ward Thomas, if you would hang on just a minute, I want you to hear this question and the answers because I want to talk to you about it later.

The gentleman from Oregon is exactly correct. We do need a condensed and solid recommendation from the administration. I think with this hearing we are getting closer than we have been. I agree with him totally.

There has been an insinuation by the gentleman from Indiana that somehow 500 million to 1 billion board feet has been either cut when it shouldn't have been cut and overharvested. As I recall, in the summit meeting held in Oregon, the number at that point that we agreed on—Oregon and Washington, the Oregon delegation—was 12 billion board feet. That's biennial. We dropped it to 10 billion board feet, thinking we had an agreement. We brought it back to the Congress, and we ended up at 3.4 or 6.8 billion board feet.

I want to ask you, if the gross net harvest was around 4 billion, and we dropped to 3.4, were we overharvesting between 1985 and 1990? Were we cutting more than we could sustain? Were we interfering with the perpetual yield, Mr. Robertson?

Mr. ROBERTSON. Our draft forest plans, which is what we had at the time we had the Oregon summit, was about 4.0 to 4.1, and that is where the Oregon summit came up with 2 years of our draft forest plans at the time. So, again, that was our best estimate of what we could do in managing the forest at that time.

Mr. SMITH. Is that overharvesting? Is that sustainable? Is 4.1 sustainable?

Mr. ROBERTSON. That was sustainable under the assumptions built into those draft—

Mr. SMITH. Perpetual yield at that time, the assumptions at that time.

Mr. ROBERTSON. All of our plans are built—with rare exceptions—on a sustainable principle based on the assumptions built into the plan.

Mr. SMITH. So when you came down to 3.4, Dale, you came down because of spotted owl considerations, management requirements that you instituted, and wild and scenic river implications. Every time the Congress makes a change in the law, we reduce the timber base, and you have to react, don't you?

Mr. ROBERTSON. That is correct. There are two factors. The timber base changes, and then there are changes in assumptions about how we're going to manage the land.

Mr. SMITH. So you didn't overharvest 1 billion board feet more than you should have.

Mr. ROBERTSON. No, we were harvesting within the assumptions that were built into the plans that were governed at that time.

Mr. SMITH. Well, it just didn't evaporate somehow. It's not a shadow note.

Getting back to the question of designation in the short term, we have heard from the Bureau of Land Management that they could recommend somewhere in the neighborhood of 700 million to 800 million board feet of certainty. I asked Mr. Butruille if he had a number, and I think correctly he said that he was not prepared to offer a number.

I want to ask you, Dale, and John Butruille—he, under some pressure from me, said that we could get one in a month. This committee I believe needs direction from the Forest Service in this very, very important point. I want to ask you, Dale—and John Butruille if you want—when is a reasonable time that you can get us a recommended number for the short term?

Mr. ROBERTSON. Two weeks.

Mr. SMITH. John, you were very conservative weren't you?

I think that's important, and I think, Mr. Chairman, that this is at least a step that we have accomplished today. We have a certainty number coming that at least this committee can rely upon. I don't know the outcome, but at least we have some numbers.

Then, I would like to ask you, Mr. Beuter, Mr. Jamison, and Mr. Robertson, if you would give this committee your recommendations on sufficiency. If you give a number, you have to back it up, as you have all testified, with sufficiency. I want to know what kind of sufficiency language and what you're recommending so that this committee can make some judgment.

Thank you, Mr. Chairman.

Mr. VOLKMER. I would like to continue with what I started out with. I'm still getting back to the 5.2 or whatever we have total that is available out there under contract, 5.7, and what is going to be cut.

Now, if we average that out, would it be fair to say that you would average that out over 2, 3, or 4 years? I'm talking about that which is now under contract.

Mr. BEUTER. If I can give some perspective to that, first of all, the amount under contract is abnormally low at the present time. It could normally be expected to be twice to three times that. Most companies—if a company is cutting down to the level that we're at now, or the aggregate of the industry, with no forecast of anything

to fill the pipeline, they are on their way out of business. You can't get loans, you can't project ahead, you can't make investments in your mill, you can't maintain your mill with the expectation that you're going to be out of timber within a year.

Essentially, we have a situation in which many of these firms don't have timber to last much more than a few more months. So the issue is—it's fine to think that we can sort of cut along and everything is going to be fine, but if you get down anywhere below where we are now, the industry is out of business.

Mr. VOLKMER. In other words, the general statement by Judge Dwyer that you have 19 months of cutting out there and the timber industry is not going to be affected much is really not—

Mr. BEUTER. It's naive, in a word.

Mr. VOLKMER. In other words, it doesn't look at actually what is going on out there. That is a general statement and if you went by generalities, it may be true, but if you look at it as specifics, it's not accurate.

Mr. BEUTER. That's right.

Mr. VOLKMER. It's not 19 months worth of cutting in a lot of places.

Mr. BEUTER. That's right.

Mr. VOLKMER. Mr. Jamison, we haven't gone into BLM. How much BLM is available under contract right now?

Mr. JAMISON. About 1.16 billion.

Mr. VOLKMER. That's mostly in Oregon?

Mr. JAMISON. Yes, sir.

Mr. VOLKMER. Almost all in Oregon?

Mr. JAMISON. Yes, sir.

Mr. VOLKMER. How much of that will be on the east side and how much of it would be on the west side?

Mr. JAMISON. All on the west side.

Mr. VOLKMER. All on the west side?

Mr. JAMISON. Yes, sir.

Mr. VOLKMER. And what did you cut in 1989 and 1990?

Mr. JAMISON. I will have to get those numbers, sir.

Mr. VOLKMER. I would appreciate having those numbers sent to my office, so we can again get some idea.

Mr. JAMISON. Mr. Chairman, can I add one thing under the 1.16 billion?

Mr. VOLKMER. Yes.

Mr. JAMISON. A lot of that is probably not immediately available. I would assume that some of the roads are not into those areas, and also that with the designation of critical habitat we may have to go back and look at some of those. So I would put that what could actually come out of that this coming year would be somewhere around 20 percent to 30 percent of that at the most.

Mr. VOLKMER. In other words, we're going to see reduced cuts this year compared to last year and 1989. There is no question about that in my mind.

Mr. JAMISON. Absolutely.

Mr. VOLKMER. Is that correct, John?

Mr. BEUTER. That's correct.

Mr. VOLKMER. Do you say the same thing? Are you going to see reduced harvesting in 1991 from 1989 and 1990?

Mr. BEUTER. Right now, there is no harvesting in 1991 on Forest Service on the west side forest.

Yes, it will be reduced.

Mr. VOLKMER. Getting back to what John Butruille said, under Judge Dwyer's order, what we have left, we are looking at sales of approximately 1.3 available. Is that correct?

Mr. ROBERTSON. Our estimate is 1.2.

Mr. VOLKMER. How much, Mr. Jamison, will you be able to come up with?

Mr. JAMISON. We are not under Mr. Dwyer's case. We are not impacted.

Mr. VOLKMER. I know you're not. I want to know how much you're going to be able to do.

Mr. JAMISON. I go with 750 million.

Mr. VOLKMER. Which is about average, then, right?

Mr. JAMISON. No, sir, our normal forest plans are about 1.2 billion and we have reduced that because of the owl. I did that unilaterally down to 750 million.

Mr. VOLKMER. But you're not going along with the 50-40-11 ISC?

Mr. JAMISON. That's correct, sir.

Mr. VOLKMER. You're not doing that.

Mr. JAMISON. If we did that, we would have to go down to about 450, and if critical habitat comes fully into play, we would have to go down and estimate it around 320.

Mr. VOLKMER. Now, I have a little time left.

Mr. Turner, I don't know if I'm going to be able to get this all through my half a minute that I have, but your recovery plan has been brought out here in your statement. We're going to have a report in December. Have you all looked at the ISC as a recovery plan?

Mr. TURNER. Mr. Chairman, the recovery team, I understand—which is a multiagency—indeed is looking at the Thomas plan as adequacy for recovery. The critical habitat that we proposed was also based in large part on the ISC strategies.

Mr. VOLKMER. Would you, since you probably can't do it right now—I want to know the names of everybody on that recovery team. Also, I want their background.

Mr. TURNER. Yes, sir, we will provide that to your office.

[The information follows:]

You requested the names and background material on each member of the spotted owl recovery team. We are enclosing résumés for all but two members, Richard Nafziger and Christine Sproul, who have declined to submit this material for the record:

Enclosure 3

NORTHERN SPOTTED OWL RECOVERY TEAM

As Team Leader, Marvin Plenert, Regional Director for U.S. Fish & Wildlife Service, will have primary responsibility for managing the team, preparing a work plan, coordinating staffing and administration, drafting the recovery plan and ensuring public participation. Deputy Under Secretary Don Knowles, as Team Coordinator, will serve as Lujan's representative, providing initial and ongoing policy guidance.

In addition to the Team Leader and Team Coordinator, the Northern Spotted Owl Recovery Team includes:

- Christine Sproul, Governor's Representative, State of California
- Martha Pagel, Governor's Representative, State of Oregon
- Richard Nafziger, Governor's Representative, State of Washington
- Ralph Gutierrez, Wildlife Biologist, Humboldt State University, California
- John Tappeiner, Silviculturalist & Forest Ecologist, Oregon State University
- John Beuter, Deputy Assistant Secretary for Natural Resources and the Environment, Department of Agriculture
- Richard Holthausen, Forest & Wildlife Biologist, Forest Service, Department of Agriculture
- Kent Mays, Program Manager for the Northern Spotted Owl, Forest Service, Department of Agriculture
- Ted Heintz, Economist, Office of the Assistant Secretary for Policy, Management and Budget, Department of the Interior
- Wayne Elmore, Wildlife & Fisheries Biologist, Bureau of Land Management, Department of the Interior
- Melvin Berg, Forester, Bureau of Land Management, Department of the Interior
- Kenneth Lathrop, Forester, Bureau of Indian Affairs, Department of the Interior
- Edward Starkey, Research Biologist, National Park Service, Department of the Interior
- Robert Anthony, Wildlife Biologist, U.S. Fish & Wildlife Service, Department of the Interior
- Jonathan Bart, Wildlife Biologist, U.S. Fish & Wildlife Service, Department of the Interior
- John Fay, Division of Endangered Species, U.S. Fish & Wildlife Service, Department of the Interior

DOI

MARTHA O. PAGEL
DIRECTOR, DIVISION OF STATE LANDS

State Employment

Current: Director, Division of State Lands, since March 1988. First woman to head a natural resource agency in Oregon. Key achievements include: new building (April 1990); Tongue Point dredging and development (1989-90); new wetlands protection program (1989).

March 1986 to March 1988: Deputy Director, Division of State Lands.

August 1983 to March 1986: Assistant Attorney General, General Counsel Division, Oregon Department of Justice (providing general legal advice to various natural resource agencies).

Education

J.D., Magna Cum Laude, Willamette University College of Law, May 1983.

B.A., with Highest Honors, (Journalism), San Diego State University, May 1976.

Professional Involvement/Achievements

Chair-Elect, Environmental Law Section, Oregon State Bar.

Vice-President, Western States Land Commissioners Assn.

Member, Dispute Resolution Advisory Committee, State Public Policy Dispute Resolution Program.

Member, Governor's Council on Growth Issues in the Portland Area.

Member, Oregon Ocean Resources Management Task Force.

Woman of Achievement, Salem YWCA, 1989.

Secretary, State Lawyers Assistance Committee, Oregon State Bar (1987-89).

Curriculum Vitae

Ralph Joseph Gutiérrez

Birthdate: 18 December 1945 **Date:** January 1991
Address: Department of Wildlife
 Humboldt State University
 Arcata, CA 95521
 Phone: (707) 826-3320 Home: (707) 839-2686

Education

PhD	1977	Zoology, University of California, Berkeley
MS	1973	Biology, University of New Mexico, Albuquerque
BS	1971	Wildlife Biology, Colorado State University, Fort Collins

Other Undergraduate Work

June, 1967 - June, 1968 University of New Mexico
 January - June, 1966 Sophia University, Tokyo, Japan

Statement of Philosophy: I have worked and studied in the fields of wildlife, biology, ecology, and ornithology since 1967. I have intentionally maintained diverse interests so that I could provide advice and alternative perspectives to my students.

Research and Work Experience	see pages 2-4
Professional Activities	see page 5
Research and Teaching Interests	see page 6
Scientific and Technical Publications	see pages 7-11
Papers Presented	see pages 12-14
Selected Unpublished Reports	see pages 15-21
Grants Received	see pages 23-26
Honors	see page 27
References	see page 28

RESEARCH AND WORK EXPERIENCE

August 1987 - Present

Professor, Department of Wildlife, Humboldt State
University, Arcata, California.
50% research grant, 50% teaching.

September 1986 - May 1987

Associate Professor, Department of Wildlife, Humboldt State
University, Arcata, California.
Sabbatical leave.

September 1983 - September 1986

Associate Professor and Chair of Wildlife, Humboldt State
University, Arcata, California.
50% teaching, 50% administration.

January 1981 - June 1981

Co-Director, CORE Student Affirmative Action Program,
Humboldt State University, Arcata, California.
50% teaching 50% administration.

September 1979 - August 1983

Assistant Professor, Department of Wildlife, Humboldt State
University, Arcata, California.
100% teaching.

August 1977 - July 1979

Assistant Professor, Department of Natural Resources,
Cornell University, Ithaca, New York.
70% teaching, 30% research.

June 1974 - July 1977

Ford Fellow, University of California, Berkeley. Graduate
student, Mountain and California Quail doctoral research.

October 1973 - June 1974

Teaching Assistant, University of California, Berkeley. Lab
instructor in junior and senior level vertebrate zoology
courses. Mountain quail and mourning dove research for
potential doctoral problem.

Summer 1973 Present

Since 1973, I have completed over 50 wildlife consulting
projects for the following groups: Antioch College, Ohio;
University of California, Santa Cruz; Arizona Game and Fish
Department; Ott Water Engineers, Inc., Redding, California;
Oscar Larson and Associates, Eureka, California; Children's
Television Workshop, New York, New York; Laguna Ranch
Corporation, Paso Robles, California; Rising Sun, Arcata,
California; National Wildlife Federation; Wilderness

Society; U.S. Forest Service; Bureau of Land Management;
California Department of Fish and Game (partial listing).

Summer 1973

Instructor of Biology, College Enrichment Program,
University of New Mexico (see Summer 1972). Research on
Band-tailed Pigeon for M.S. thesis.

August 1972 - May 1973

Graduate Assistant, Department of Biology, University of New
Mexico. Instructor in general biology labs. MS thesis
research on Band-tailed Pigeons.

May 1972 - August 1972

Research Grant from the U.S. Fish and Wildlife Service.
Breeding biology of the Band-tailed Pigeon.

Summer 1972

Instructor of Biology, College Enrichment Program,
University of New Mexico. I designed and taught a short
primer course in freshman biology for economically
disadvantaged students.

September 1971 - June 1972

Graduate Assistant Department of Biology, University of New
Mexico. Instructor in general biology labs. Conducted
research on the Band-tailed Pigeon.

Summer 1971

College student trainee, New Mexico Game and Fish
Department, Santa Fe, New Mexico. Trapping and banding
mourning doves.

September 1970 - January 1971

Student assistant, Colorado Cooperative Wildlife Research
Unit, Fort Collins, Colorado. Radio telemetry of
jack-rabbits, trapping and marking rabbits.

Summer 1970

Research aide, Colorado Game, Fish and Parks, Fort Collins,
Colorado. Sangre de Cristo Mountains bighorn sheep lamb
mortality study; aid in locations, observation, and
collection of sick or injured bighorns.

September 1969 - June 1970

Student assistant, Colorado State University, Department of
Wildlife Biology, Fort Collins. I helped conduct bird
counts, prepared study skins, and assisted on graduate
student projects and faculty field work and departmental
work.

Summer 1969

Research aide, Colorado Game, Fish and Parks, Fort Collins.
Bighorn Sheep project: see Summer 1970.

September 1968 - June 1969

Student assistant, Colorado State University, Department of
Wildlife Biology, Fort Collins. Mourning dove research,
bird counts, field work, and departmental duties.

Summer 1968

Biological aide, U.S. Fish and Wildlife Service. Bosque del
Apache National Wildlife Refuge, San Antonio, New Mexico.
Mourning dove census, nesting, and banding studies, farm
work, office work and general refuge work.

Fall 1967

Football Coach, Wells Park Community Center, City of
Albuquerque, New Mexico.

1963-67 U.S. Army.

PROFESSIONAL ACTIVITIES

SOCIETY MEMBERSHIPS

American Ornithologist's Union	1975 - present
The Cooper Ornithological Society	1975 - present
The Wilson Ornithological Society	1977 - present
Society for the Advancement of Chicanos and Native Americans in Science	1978 - present
Society for Conservation Biology	1987 - present
The Wildlife Society (all chapters)	1968 - present
The Nature Conservancy	1988 - present

SOCIETY OFFICES HELD

Humboldt Chapter Rep to West. Sec. TWS	1981
--	------

UNIVERSITY COMMITTEES

Affirmative Action Committee, Dept. Zoology, University of California, Berkeley	1974 - 1975
University Minority Education Committee, Cornell University	1978 - 1979
Provost Task Force on Minority Affairs, Cornell University	1978 - 1979
University Affirmative Action Committee, Humboldt State University	1981 - 1982
Professional Leaves Committee	1983 - 1984
Nature Conservancy (Landphere Dunes management committee)	1979 - 1982
Center for Research and Creative Projects Committee	1988 - present
Numerous other department, college, dean or presidential appointed committees, Humboldt State University	

BOARD MEMBERSHIPS

Nature Conservancy (National Board of Directors)	1988 - present
CORE Student Affirmative Action Program (Director and Board Member)	1981

RESEARCH AND TEACHING INTERESTS

Research Interests

I am interested in avian ecology, especially problems relating to the evolution of birds (particularly New World quail), reproductive cycles and opportunistic breeding, habitat selection, and the relationship of theoretical questions in biology to applied ecology. I also maintain strong interests in large ungulates, game management, and conservation biology.

Current Active Research Problems

Spotted Owl Ecology (major studies in habitat, dispersal, genetics and population dynamics).
Habitat ecology of vertebrates.
Mountain quail habitat ecology.

Preferred Teaching Courses

Habitat ecology and management, ornithology, vertebrate biology, vertebrate natural history, wildlife ecology, field biology, general ecology, field research techniques, the biology of game birds, (upland or waterfowl), game birds and mammals of the United States, current problems in wildlife biology, principles of wildlife management, and interest.

Titles of Past Courses Taught (Full Responsibility)

General Biology - University of New Mexico
American Game Birds and Mammals - Univ. of California, Berkeley
Field Biology - Cornell University
Principles of Wildlife Management - Cornell University
Introduction to Wildlife - Humboldt State University
Wildlife Ecology - Humboldt State University
Upland Habitats - Humboldt State University
Upland Game Birds - Humboldt State University
Habitat Ecology (Graduate) - Humboldt State Univ.
Hunting Theory - Humboldt State University
Graduate and Undergraduate Seminars (e.g., conservation and evolution; conservation biology; Riparian Habitats; mitigating losses of Fish and Wildlife Habitat; Wildlife Management on private land; Dispersal and Migration; Biodiversity) - Humboldt State University.

Oregon State University
College of Forestry
Department of Forest Resources

JOHN CUMMINGS TAPPEINER II
Professor

DEGREES:

B.S. Forestry 1957 University of California, Berkeley
M.S. Forestry 1961 University of California, Berkeley
Ph.D. Forestry 1966 University of California, Berkeley
(Specialty in forest ecology and silviculture)

PROFESSIONAL EXPERIENCE:

1. 1956. Three months with the Entomology Division of the Pacific Southwest Forest and Range Experiment Station. Projects included:
Inventory of insect damage
Aerial spraying for insect control
Study of the disposition of bark beetles in logging slash
2. 1959-1962. Three years with the U.S.F.S. Eldorado National Forest, Placerville, California
Nursery management and production of seedlings for forest out-planting
Tree improvement and development of insect and disease-resistant trees
Timber sale administration and timber marking
Forest timber inventory
Fire control
3. 1961-1966. Graduate work at the University of California
Teaching assistant in silviculture and mensuration
Research assistant in silviculture - conducted studies of micro-climate, planting of ponderosa pine, natural regeneration of Douglas-fir and white fir, and stand growth
Thesis: The natural regeneration of Douglas-fir in the mixed conifer type of the Sierra Nevada of California.
Advisors: Professors D.W. Muellder and John A. Helms
4. 1966-1967. Postgraduate work at the School of Forestry, Universidade Rural do Estados de Minas Gerais, Minas Gerais, Brazil
Development of teaching and research programs, silviculture and ecology (under a Ford Foundation fellowship administered by Purdue University)
5. 1967-1968. Lecturer - Forestry, University of California at Berkeley.

6. 1968 to 1973. Associate Professor, University of Minnesota Cloquet Forest Research Center.
 Responsible for five credit course for juniors and seniors in practical and theoretical silviculture in the spring and fall quarters. Assist in field session for sophomores at Itasca Park Biological Station.
 Research in the ecology of hazel and associated understory vegetation: included studies of life histories and of effect of fire on understories, biomass and nutrient cycling.
 Research on the effect of new timber harvesting equipment on forest soils and vegetation.
 Graduate Advisor - served on PhD and MS exams and committees.
7. 1969. Consultant for Whittaker Corporation on Gurupi Project in Brazil.
8. 1972. June to September. Consultant to forestry faculty at the University of Gadjara Mada - Java, Indonesia
 Helped to develop a curriculum in forest ecology and silviculture.
 Helped to formulate and begin research projects in tropical forests on Borneo and in teak forests and critical areas on Java.
9. 1973 to 1980. Regional Silviculturist, U.S. Forest Service, Region 5 (17 National Forests in California).
 Designed and implemented certification and continuing education for silviculturists in cooperation with U.C. Berkeley, Department of Forestry.
 Advisor and consultant in silviculture to the National Forests in California.
 Review silviculture programs in Region 5.
 Work in forest stand management prescriptions, regeneration, growth and yield.
 Developed a handbook covering aspects of stand growth evaluation, seed collection, site preparation, planting, release, and the response of shrubs and hardwoods to various treatments, for use in California.
 Conducted interdisciplinary field training in landscape architecture and silviculture.
10. 1974, to 1976. Taught silviculture portion of U.S. Forest Service Region I course for certification of silviculturists at University of Idaho.
11. 1977 to 1980. Lecturer in Forestry, University of California Berkeley. Gave undergraduate classes and special graduate courses. Served on graduate qualifying committees.
12. 1981 to present. Associate Professor/Professor - Forestry, Oregon State University - teaching silviculture and forest ecology, research in shrub and hardwood ecology and vegetation management, forest stand growth.

PUBLICATIONS

Peer-Reviewed Papers

- Pabst, R.J., J. Tappeiner, and M. Newton. 1990. Varying densities of Pacific madrone in a young stand in Oregon alter soil water potential, plant moisture stress, and growth of Douglas-fir. *For. Ecol. and Management* 37:267-283.
- Fried, J.S., J.R. Boyle, J.C. Tappeiner II, and K. Cromack, Jr. 1990. Effects of bigleaf maple on soils in Douglas-fir forests. *Can. J. For. Res.* 20:259-266.
- Zasada, J.C., J.C. Tappeiner II, and T.A. Max. 1990. Viability of bigleaf maple seeds after storage. *West J. Appl. For.* 5(2):52-55.
- Hughes, T.F., J.C. Tappeiner II, and M. Newton. 1990. Relationship of Pacific madrone sprout growth to productivity of Douglas-fir seedlings and understory vegetation. *West J. Appl. For.* 5(1):20-24.
- Tappeiner, J.C. and P.A. Alaback. 1989. Early establishment and vegetative growth of understory species in the western hemlock Sitka spruce forests of Southeast Alaska. *Can. J. Bot.* 67:318-326.
- Fried, J.S., J.C. Tappeiner and D.E. Hibbs. 1988. Bigleaf maple seedling establishment and early growth in Douglas-fir forests. *Can. J. For. Res.* 18:1226-1233.
- Tappeiner, J.C., T.F. Hughes and S.D. Tesch. 1987. Bud production of Douglas-fir (*Pseudotsuga menziesii*) seedlings: response to shrub and hardwood competition. *Can. J. For. Res.* 17:1300-1304.
- Hughes, T.F. C.R. Latt, J.C. Tappeiner and M. Newton. 1987. Biomass and leaf-area estimates for varnishleaf ceanothus, deerbrush, and whiteleaf manzanita. *West J. Applied For.* 2:124-128.
- Tappeiner, J.C., R. Pabst and M. Cloughesy. 1987. Stem treatments to prevent tanoak sprouting. *West J. Applied For.* 2:41-45.
- McDonald, Philip M. and J.C. Tappeiner. 1986. Weeds: Life cycles of competing species suggest controls. *J. For.* 84(10):33-37.
- Tappeiner, J.C., P.M. McDonald, and T.F. Hughes. 1986. Establishment of tanoak and Pacific madrone in conifer forests of southwestern Oregon. *New Forests* 1:43-55.
- Tappeiner, J.C. and R. Wagner. 1986. Silviculture prescription and forest vegetation management. In Walstad and Kuch, eds., *Forest Vegetation Management*. John Wiley and Sons, New York, NY, in press.

- Tappeiner, J.C., W.H. Kaapp, C.A. Wierman, W.A. Atkinson, C.D. Oliver, J.E. King and J.C. Zasada. 1986. Silviculture on the Pacific Coast - the past 30 years and the next 30 years. *J. For.* 84(5):37-46.
- Tappeiner, J.C. and P.M. McDonald. 1984. Development of tanoak understories in conifer stands. *Can. J. For. Res.* 14:271-277.
- Tappeiner, J.C., T.B. Harrington and J.D. Walstad. 1984. Predicting recovery of tanoak and Pacific madrone after cutting or burning. *Weed Sci.* 32:415-417.
- Harrington, T.B., J.C. Tappeiner and J.D. Walstad. 1984. Predicting leaf area and biomass of 1 to 6-year-old tanoak and Pacific madrone sprout clumps in southwestern Oregon. *Can. J. For. Res.* 14:209-213.
- Tappeiner, J.C. 1982. Aspen root systems and suckering in red pine stands. *Am. Midland Nat.* 107:408-410.
- Tappeiner, J.C. and S.R. Radosevich. 1982. Effect of bearmat (*Chamaebatia foliolosa*) on soil moisture and ponderosa pine (*Pinus ponderosa*) growth. *Weed Sci.* 30:98-101.
- Salwasser, H. and J.C. Tappeiner. 1981. An ecosystem approach to integrated timber and wildlife management. *Trans., 46th N. Am. Wildlife and Nat. Res. Conf. Wildlife Mgt. Inst., Washington, D.C.*
- Tappeiner, J.C. 1979. Effect of fire and 2,4-D on the early stages of beaked hazel understories. *Weed Sci.* 27:162-166.
- Tappeiner, J.C. and A.A. Alm. 1975. Undergrowth vegetation effects on the nutrient content of litter fall and soils in red pine and birch stands in northern Minnesota. *Ecology* 56:1193-1200.
- Hatch, C.R., D.J. Gerrard and J.C. Tappeiner. 1975. Exposed crown surface area: a mathematical index of individual tree growth potential. *Can. J. For. Res.* 5:224-228.
- Tappeiner, J.C. and H.H. John. 1973. Biomass and nutrient content of hazel undergrowth. *Ecology* 54:1342-1348.
- Peak, J.M., L.W. Krefting and J.C. Tappeiner. 1971. Variation in twig diameter-weight relationships in northern Minnesota. *J. Wildland Mgt.* 35:501-507.
- Tappeiner, J.C. and J.A. Helms. 1971. Natural regeneration of Douglas-fir and white fir on exposed sites in the Sierra Nevada of California. *Am. Midland Natur.* 86:358-370.
- Tappeiner, J.C. 1971. Invasion and development of beaked hazel in red pine stands in northern Minnesota. *Ecology* 52:514-519.

- Tappeiner, J.C. 1969. Effect of cone production on branch, needle, and xylem ring growth of Sierra Nevada Douglas-fir. *For. Sci.* 15:171-174.
- Tappeiner, J.C. 1965. Comments on "Natural regeneration of Sierra Nevada mixed conifers after logging". *J. For.* 63:945.
- Muellder, D.W., J.C. Tappeiner and J.H. Hansen. 1964. Phanologische Untersuchungen des Frühljahrestreibens von *Pinus ponderosa*-pflanzlingen in Kalifornien. *Allg. Forst und Jagdzeitung* 135, Heft 8.
- Muellder, D.W., J.C. Tappeiner and J.H. Hansen. 1963. Measurement of potential evaporation rates in ecology and silviculture with particular reference to the piche atmometer. *J. For.* 61:840-845.
- Proceedings, Bulletins and Notes
- McDonald, P.M. and J.C. Tappeiner. 1987. The ecology and management of tanoak. In *Proc., Management of California Hardwoods*, November 1986, San Luis Obispo, California. USDA For. Serv. Gen. Tech. Report PSW-100.
- Tappeiner, J.C. 1985. Tanoak and madrone effects on Douglas-fir regeneration. Preliminary results. In *Proc., 1985 California Vegetation Management Conference*, Eureka, California.
- Perry, D.A., J.C. Tappeiner, and B. McGinley. 1985. A review of literature pertaining to vegetation management on the Siuslaw National Forest. Phase I: Early successional patterns, competition between trees and associated vegetation, and efficacy of vegetation control techniques. Report to the Siuslaw National Forest.
- Tappeiner, J.C., J. Gourley and W. Emmingham. 1985. A user's guide for on-site determinations of stand density and growth with a programmable calculator. Oregon State Univ., For. Res. Lab., Spec. Publ. 11.
- Tappeiner, J.C., J.F. Bell and J.D. Brodie. 1982. Response of young Douglas-fir to 16 years of intensive thinning. Oregon State Univ., For. Res. Lab., Res. Bull. 38, 17 pp.
- Tappeiner, J.C. 1981. Estimating potential hardwood and shrub cover and plantation development. In Hobbs and Helgerson, eds., *Proc., Reforestation of Skeletal Soils*. Oregon State Univ., For. Res. Lab., 124 pp.
- Tappeiner, J.C. 1980. Sierra Nevada mixed conifer type. In F.H. Eyre, ed. *Forest cover types of United States and Canada*, Soc. Am. For., Washington, D.C. In press.
- Tappeiner, J.C. and Phillip McDonald. 1979. Preliminary recommendations for managing California Black Oak in the Sierra Nevada. In *Proc., Symp. on the ecology, management and utilization of California oaks*, U.S. For. Serv., Gen. Tech. Paper PSW 44, 368 pp.

- Merriam, L.C., Jr, J.C. Tappeiner, et al. 1973. Newly developed campsites in the Boundary Waters Canoe Area: a study of 5 years' use. Univ. of Minnesota, Ag. Exp. Sta. Bull. 511, 27 pp.
- Tappeiner, J.C. and A.A. Alm. 1972. Effect of hazel on the nutrient composition of annual litter and forest floor in jack and red pine stands. College of For., Univ. Minnesota, Minnesota For. Res. Note 235, 4 pp.
- Tappeiner, J.C. and R.A. Dahlman. 1971. Control of hazel undergrowth with light applications of 2,4-D. College of For., Univ. Minnesota, Minnesota For. Res. Note 231.
- Zasada, Z. and J.C. Tappeiner. 1970. Full tree harvesting system aids forest management. College of For., Univ. Minnesota, Minnesota For. Res. Note 205.
- Zasada, Z. and J.C. Tappeiner. 1969. Soil disturbance from rubber-tire skidders during summer harvesting of aspen. College of For., Univ. Minnesota, Minnesota For. Res. Note 204.
- Candido, J.F., J.C. Tappeiner and G.R. Braga. 1967. Competicao de especies de eucaliptos. Second Meeting concerning Brazilian Savannas. Sete Lagoas. June 1967.

Biographical Sketch for JOHN H. BEUTER

Dr. Beuter was sworn in as Deputy Assistant Secretary of Agriculture for Natural Resources and Environment by Secretary of Agriculture Clayton Yeutter on January 9, 1991, with primary responsibilities for assisting Assistant Secretary James R. Moseley to manage USDA's Forest Service and Soil Conservation Service. The Forest Service mission is to provide a sustained flow of renewable forest resources in a combination to best meet the needs of society now and in the future. The Soil Conservation Service has responsibility for the national soil and water conservation program, in cooperation with landowners, community planning agencies, regional resource groups, and with Federal, state and local government agencies.

Before becoming Deputy Assistant Secretary, Dr. Beuter was a consulting forester and principal with Mason, Bruce & Girard, Inc. in Portland, Oregon from 1988 through 1990. From 1970 through 1987, he was with the College of Forestry at Oregon State University where he served in a variety of positions, including professor and department head of forest management, associate dean for instruction and continuing education, and director of College research forests.

His degrees include a B.S. in forestry (1957) and an M.S. in forest economics (1958) from Michigan State University, and a Ph.D. in forestry and economics (1966) from Iowa State University. Early professional experience included working as a forestry research assistant in northern Michigan, a forest fire fighter in California, and a forester on the Mt. Hood National Forest in Oregon.

Following three years in the Air Force, he was employed during 1961-1968 as a research forester with the U.S. Forest Service's Pacific Northwest Experiment Station in Portland, first in forest inventory and resource analysis, and later as project leader for marketing economics research. He left the Forest Service in 1968 for a position as forest economist with Mason, Bruce & Girard, remaining there until going to Oregon State University in 1970.

Dr. Beuter's research topics have included forest resource analysis, forest measurements and timber sale procedures, forest management economics, and silvicultural analysis. He has taught undergraduates, graduate students, and continuing education students in general forestry, forest economics, forest management, and silvicultural analysis. His consulting clients have included Federal forest management agencies, law firms, the U.S. Department of Justice, the Congressional Research Service, forest products firms and associations. He has prepared expert reports and testimony in the U.S. Claims Court, U.S. Tax Court, and local District Court, and has testified at numerous hearings in both houses of the U.S. Congress and the Oregon legislature.

He received the 1977 Forestry Alumni Distinguished Faculty Achievement Award, and shared the 1990 Dean's Achievement Award for contributions in research at Oregon State University. He was elected a Fellow of the Society of American Foresters in 1986.

Curriculum Vitae
Richard S. Holthausen

1. Name: Richard Swain Holthausen
2. Title: Regional Wildlife Ecologist
Pacific Northwest Region
U.S. Forest Service
3. Address: Wildlife and Fisheries Staff
USDA, Forest Service
Pacific Northwest Region
319 SW Pine Street, P.O. Box 3623
Portland, OR 97208
4. Telephone: 503 326-4091
5. Date of Birth: August 11, 1945
6. Nationality: United States of America

7. Educational Qualifications:

Degree	University	Major/Minor	Year
B.S.	Cornell University Ithaca, New York, USA	Ecology/ Mathematics	1973
M.S.	Utah State University Logan, Utah, USA	Ecology/ Range Management	1977

8. Professional Experience:

- a. Regional Wildlife Ecologist, Pacific Northwest Region, USDA Forest Service. October, 1985 to Present
- b. Assistant Wildlife Ecologist, National Wildlife and Fish Ecology Unit, USDA Forest Service. April, 1983 to September, 1985
- c. Forest Planner, Bighorn National Forest, Rocky Mountain Region, USDA Forest Service. February, 1981 to March, 1983
- d. Forest Planning Biologist and Range Conservationist, Bighorn National Forest. April, 1979 to January, 1981.
- e. Range Scientist, Peter Klauit Sons Mining, Sheridan, Wyoming. 1978 to 1979.
- f. Range Science Consultant, VIN Corporation, Sheridan, Wyoming. 1977 to 1978.

9. Field of Specialization and Subjects of Interest

- a. Integrated management of forest and rangelands for wildlife habitat, timber products and other values.
- b. Building and using habitat capability models for vertebrate wildlife species.
- c. Design and use of forest inventories.
- d. Managing for viable populations of vertebrate species.
- e. Continuing education for natural resource managers.

10. Research Activities:

- a. Ecophysiology of desert shrublands in the southwestern US.

11. Publications:

- a. Co-authored one publication on physiology of desert shrubs and numerous papers on integrated resource management, population viability, forest inventories, and the use of modeling in wildlife habitat management.
- b. Technical co-editor for the Habitat Futures Series, Pacific Northwest Research Station, USDA Forest Service, 1989.

12. Teaching Experience:

- a. Teaching Graduate Assistant - 1975 to 1976
"Field analysis techniques for Forest Managers"
- b. Designed and Instructed - Wildlife and Silviculture short course - 1989. 2 week course for mid-career foresters and wildlife/fish ecologists.
- c. Instructor for the following USDA Forest Service Continuing Education Sessions:
 - Entry level wildlife/fisheries/ecologists professionals
 - Mid-Career training in "Wildlife Habitat Management"
- d. Speaker at numerous sessions and short courses for the USDA Forest Service and cooperating agencies on the following topics:
 - Wildlife Habitat Relationships
 - Integrated Resource Analysis and Management
 - Forest Inventories
 - Managing for Viable Populations of Vertebrates

BIOGRAPHICAL SKETCH

Name: L. KENT BRYS, JR.

Name of Organization: USDA, Forest Service - Pacific Northwest Forest and
Range Experiment
Station

Full Title: Program Manager - Spotted Owl Research, Development, and
Application (RDA) Program

Description of your position: Serve as Program Manager for the research, development, and application program which involves two Forest Service Regions and two Forest and Range Experiment Stations. The goal of the program is to create knowledge from spotted owl research, develop guidelines, and apply these to the National Forest's management activities in the 24 Forests located along the Sierra and Cascade crest and coast line in Oregon, Washington, and California.

Description of past pertinent positions and/or accomplishments: Served in various line and staff officer positions on seven National Forests in Oregon, Pennsylvania, New York, and Vermont (Williamette, Hallowell, Rogue River, Siuslaw, Winema, Allegheny, and Green Mountain).

Assignment to National Headquarters in Washington D.C. in 1976 through 1980. Served in Recreation, long-range planning, as mandated by the Resources Planning Act (RPA) and Legislative Affairs Staff. Selected by the American Political Sciences Association for their Congressional Fellow Program. During this 11-month period, served on personal staff and a member of the Senate and the House of Representatives.

Served as Deputy Regional Forester for Resources in the Intermountain Region (Ogden, Utah) and Pacific Southwest Region (San Francisco, CA) in 1980 through 1985.

Served on the President's Commission on Americans Outdoors (11/85 through 1/87; Associate Director for Management).

Professional organization affiliations: Society of American Foresters on National Educational Policies Committee (1982 through 1986).

BIOGRAPHICAL SKETCH

NAME: L. KENT HAYS, JR.

CURRENT UNIT: USDA, Forest Service, Pacific Northwest Forest and Range
Experiment Station Spotted Owl Research, Development and
Application (RDBA) Program, Program Manager.

EXPERIENCE DATA:

Page 1 of 3		
DATES	POSITION (Working Title, Series, Grade)	ORGANIZATION AND LOCATION
4/87-Present	Program Manager, Spotted Owl Research, Development and Application Program, GS-0401-15.	PNW Forest & Range Exp. Station, Portland, OR.
2/87- 4/87	Assistant Director, GS-060-15.	USDA, Forest Service, Recreation Management, Washington, DC
11/85 - 1/87	Associate Director, GS-060-15.	Detailed to President's Commission on Americans Outdoors, Washington, DC
9/82 - 11/85	Deputy Regional Forester, GS-060-15.	USDA, Forest Service, RS Pacific Southwest Region, San Francisco, CA
10/80 - 9/82	Deputy Regional Forester, GS-060-15.	USDA, Forest Service, RM Intermountain Region, Ogden, UT
11/78 - 9/80	Forester, GS-060-14.	Legislative Affairs Staff USDA, Forest Service, Washington, DC

Page 2 of 3		
DATES	POSITION (Working Title, Series, Grade)	ORGANIZATION AND LOCATION
7/76 - 10/78	Recreation Group Leader, GS-458-14.	USDA, Forest Service, Recreation Management, and NPA Staffs, Washington, DC
12/73 - 7/76	Forest Supervisor, GS-458-13.	USDA, Forest Service, RS Green Mountain NF, Burlington, VT
8/71 - 12/73	Deputy Forest Supervisor, GS-458-13.	USDA, Forest Service, RS Allegheny NF, Garrett, PA
6/67 - 8/71	District Ranger, GS-458-12	USDA, Forest Service, RS Siuslaw NF, Waldport, OR
6/65 - 6/67	District Ranger, GS-458-11	USDA, Forest Service Boys River NF Jacksonville, OR
6/63 - 6/65	Assistant District Ranger, GS-458-9	USDA, Forest Service Gifford NF Chemult, OR
10/61 - 6/63	Assistant Timber Management Staff Officer, GS-458-9	USDA, Forest Service Hillman NF John Day, OR
1/60 - 10/61	Program Analyst, GS-458-7/9	USDA, Forest Service Washington, D.C.
6/59 - 12/59	USAR, Artillery, Lieutenant	Ft. Sill, OK
6/58 - 6/59	Forester,	USDA, Forest Service Willamette NF Blue River, OR

! EDUCATION: !		
! 1958	! Oregon State University	! U.S. (Forestry)
! 1968-62	! American University	! Public Admin.
! AWARDS: (List by date, type of award, and describe the basis for the award) !		
! 1989	! Certificate of Appreciation and cash award for performance.	
! 1989	! Certified as Qualified for Senior Executive Service.	
! 1987	! Certificate of Appreciation and cash award for participation	
	! as staff to the President's Commission on Americans Outdoors!	
! 1988	! Certificate of Merit for performance in development of the	
	! 1988 RPA Program as a member of the RPA Core Team.	
! 1978-79	! Selected as a Congressional Fellow by the American Political	
	! Science Association.	

Resume'**H. Theodore Heintz, Jr.****Education****B.E.E., 1965 Cornell University (Electrical Engineering)****M.P.A., 1971 Woodrow Wilson School of Public
and International Affairs
Princeton University****Experience**

1965-1969	Office of Management and Budget (at that time, Bureau of the Budget) Budget Examiner on NASA Programs
1970-1975	Director of Economics and Systems Analysis Earth Satellite Corp. Washington. D.C.
1975-1977	Economist Office of Policy Analysis Department of the Interior
1977-1986	Assistant Director for Special Studies Office of Policy Analysis Department of the Interior
1983-1984	Research Director Commission on Fair Market Value Policy for Federal Coal Leasing
1986-1989	Assistant Director for Economic Analysis Office of Policy Analysis Department of the Interior
1989-1990	Staff Director President's Task Force on Outer Continental Shelf Leasing and Development
1990-1991	Assistant Director for Economic Analysis Office of Policy Analysis Department of the Interior

BIOGRAPHICAL SKETCH
Wayne Elmore
Bureau of Land Management
Prineville, Oregon

1. Native of Sapulpa, Oklahoma.
2. Graduated Oklahoma State University, 1968 with a B.S. in Forestry/Wildlife.
3. Did additional Post Graduate Studies in Fisheries and Wildlife Management while in the State of Washington from 1969-1974.
4. 23 years with the Bureau of Land Management as a Wildlife and Fisheries Biologist. Included 64 years in Spokane, Washington, and nearly 17 years in Prineville, Oregon.
5. Intensive inventory experience on over 300 miles of riparian systems in the west including recovery potential, fisheries and wildlife habitat, bank stability, stream flow and grazing strategies.
6. Worked on and observed riparian recovery on approximately 300 miles of stream in many different sites and systems under approximately 18 different grazing strategies.
7. Lectured to over 350 groups in the last 7 years including University seminars, national meetings, U.S. Congressional staffs, and Oregon State Legislature. Also, teaches riparian, fish and wildlife classes at Phoenix Training Center.
8. Presently writing up the findings in cooperation with OSU of a 3-year Riparian Research Project on aquifer recharge/water storage and riparian recovery.
9. Have published several papers on riparian systems and grazing management.
10. Presently the BLM Oregon State Riparian Specialist stationed in Prineville, Oregon.
11. Has been the key Bureau employee in the development of 3 videos that depict riparian management techniques. There are 100's of these videos in circulation.
12. Wayne has received several BLM Special Achievement Awards, A Quality Increase Award, and a Departmental Honor Award during the past five years--tributes to his enormous contribution to the Prineville District and BLM as a whole.

Some of his other awards include, the Oregon Trout "President's Award" in 1987 as well as the Wildlife Society Oregon Chapter, "Wildlife Achievement Award" in 1988--only the fifth recipient in 25 years. In April 1988, Wayne was also presented the National Chevron Conservation Award in Washington, DC, in recognition of outstanding contributions to our nation's resources. In 1989 he was awarded the prestigious Earle A. Childs Award, given annually for significant accomplishments in natural resource management in the high desert area of the arid Intermountain Northwest.

Wayne is also presently a finalist for the National "American Fisheries Society" distinguished service award--a very prestigious honor.

Resume
MELVIN D. BERG

Biographical Information;

Address; Interior Department
Bureau of Land Management
Forestry Division (230)
1849 C St., N.W.
Washington, D.C.

Phone; (202)653-8864

Age; 51 yrs., DOB: November 28, 1939

Education; Bachelor of Science; Forest Management, 1962
Iowa State University; Ames, Iowa

Current Position; Chief, Division of Forestry
Bureau of Land Management
Washington, D.C.

Career Summary: Bureau of Land Management (BLM)

1989 - present; As Chief of the Forestry Division, my responsibilities include development of national policy, planning, research, technology applications and guidance for the intensive management of 2.4 million acres of O&C forestlands in western Oregon and 48 million acres of Public Domain forestlands in the other western states, including Alaska. This policy direction provides long term considerations for the forested ecosystem including values for watersheds, wildlife, timber, recreation, soils, and other woodland uses of the public lands.

1980 - 1989; District Manager & Associate District Manager
BLM Roseburg District Office
Roseburg, Oregon

Responsible for the overall management, direction and guidance of this 424,000 acre western Oregon district. With a staff of 220 professional and technical employees and a budget of 8-9 million dollars, we intensively managed these forestlands to provide a timber product output of 247 million board feet annually while providing for other forest values. These values include recreation areas, watersheds, fisheries, environmental concern areas and management of habitat for threatened species such as the Northern Spotted Owl, Columbian white tail deer and the Bald Eagle as well as unlisted species of deer, elk and many smaller animals.

1977 -1980 Natural Resource Specialist
 BLM Lands Division
 Washington, D.C.

Staff member on the Rights-of Way Branch (R/W) responsible for the compliance and coordination of R/W applications which cross federal lands. Review and evaluate proposals as necessary to ensure compliance with environmental concerns associated with linear R/W's and coordinate with other federal and state agencies.

1976 -1977 Area Manager
 Riverside District
 Riverside, California

Provide the on-the-ground management for this southern California desert area of 1.7 million acres. The major concerns were for the fragile desert ecosystem resulting from extensive recreational use from motorcycles and other off-road vehicles. Other activities included land exchanges, oil pipeline and large powerline R/W's, nuclear powerplant siting and habitat management for the endangered Desert Bighorn Sheep.

1973 - 1976 Realty Specialist
 Riverside District
 Riverside, California

District staff specialist providing guidance and counsel on lands matters to management. This included land examinations, title reviews, deed language, land descriptions and decision documents for various types of federal lands actions

1965 - 1973 Forester
 Roseburg District
 Roseburg, Oregon

As a field forester on this western Oregon district, I was involved in all phases of forest management. This included layout and design of timber sales with consideration for all natural resource values, as well as efficiency of operation. Silvicultural considerations were designed to ensure reforestation within minimum timeframes to provide a new forest for watershed protection, timber production, wildlife habitat and recreational activities. I was also involved in engineering design of roads, easement acquisition, forest administration and long range planning for the district.

Affiliations; Society of American Foresters
 American Forestry Association

RESUME

NAME: Kenneth A. Lathrop

WORK ADDRESS: Bureau of Indian Affairs
Portland Area Office
911 N.E. 11th Avenue
Portland, Oregon 97232-4169

HOME ADDRESS: 5755 S.W. Childs Rd.
Lake Oswego, OR 97035

FAMILY STATUS: Married: Wife - Susan
Children: Daughter - Holly; Son-Jeff

DATE/PLACE OF BIRTH: November 6, 1940; Weymouth, Massachusetts

EDUCATION:

1964 to Present: Completed graduate and professional enhancement courses in Forestry, Wildlife, Indian Culture and Public Administration at: Oregon State University, Washington State University, University of Washington, Central Washington College, and Lewis and Clark College.

1959 to 1964: Attended Michigan Technological University, Houghton, Michigan, Graduated B.S. in Forestry.

1959: Graduated Abington High School, Abington, Massachusetts

EMPLOYMENT:

1979 - Present: Supervisory Forester, Forest Products and Sale Administration, Portland Area, Bureau of Indian Affairs. Responsibilities: Coordinate and manage all phases of timber sale preparation and administration on the Indian trust lands in the states of Oregon, Washington, Idaho and portions of Montana and Alaska. Assist Indian Tribes in Forest related economic ventures and land acquisition and management.

1977 to 1979: Assistant Forester Timber Sales, Portland Area, Bureau of Indian Affairs. Responsibilities: Managed and set the standard for the presale cruising program and preparation of timber contracts and supporting documents for Portland Area Indian Reservations.

1970 to 1977: District Ranger, White Swan Ranger Station, Yakima Indian Reservation, White Swan, Washington. Responsibilities: Administered the timber contracts for the annual allowable harvest of 100 million board feet per year on the 250,000 acre district. Managed the forest development program of pre-commercial thinning and tree planting for the Yakima Indian Reservation.

- 2 -

1964 to 1970: Timber Sale Officer, White Swan Ranger Station, Yakima Indian Reservation, White Swan, Washington.

Responsibilities: Administered timber contracts and supervised timber marking and harvesting. Developed the forest tree planting program.

1956 to 1964: While a student in high school and college worked part-time and summers in forestry.

2 years: Massachusetts Department of Natural Resources - as a member of the States Forest Development Crew.

3 years: Bay State Forest Nursery, Massachusetts as a nursery laborer.

3 years: Part-time - planted, thinned and pruned family Christmas tree plantation.

Performed contract timber felling jobs in Massachusetts and Michigan.

MILITARY SERVICE:

1966 to 1974: U.S. Army National Guard

1966: Completed Basic Training and Supply School - Fort Ord, California.

1968: Completed Officers Candidate School - Camp Murray, Washington.

1969: Platoon Leader - Tank Company, 303rd Armor, Pasco, Washington.

1970 to 1971: Platoon Leader - Heavy Mortar Platoon, 303rd Armor, Toppenish, Washington.

1972 to 1974: Executive Officer/Company Commander - Combat Support Company, Toppenish, Washington.

1974: Resigned my commission.

ORGANIZATIONS:

20 year member - Society of American Foresters

Offices held:

Secretary/Treasurer - Central Washington Chapter - 1973-1974

Vice Chairman - Central Washington Chapter - 1974-1975

Chairman - Central Washington Chapter - 1975-1976

AWARDS:

Received: Incentive, Special Achievement and other performance awards throughout my career in the Bureau of Indian Affairs.

1988: Received the Inter-Tribal Timber Council - Northwest Region Forester of the Year Award.

1. Edward E. Starkey
2. Associate Professor - Courtesy, Department of Forest Resources
College of Forestry, Oregon State University
Corvallis, Oregon 97331-5703
3. Formal Education:

Degree	Institution	Major	Dates Attended	Date Degree Earned or Expected
BS	Bemidji State	Biology	1960-64	1964
MA	St. Cloud State	Biology	1966-69	1969
PhD	Washington State	Zoology	1968-72	1972
4. Nonacademic professional and research experience:
Research Biologist, Pacific Northwest Region, National Park Service, and Associate Professor of Forest Resources, Oregon State University, May 1973-present.
Chief Scientist, Denver Service Center, National Park Service, May 1974 - May 1975.
Wildlife Ecologist, Denver Service Center, National Park Service, December 1972 - May 1974.
Research Assistant, Department of Zoology, Washington State University, September 1969 - September 1972.
5. Academic experience:

Institution	Title	Specialization	Dates	Academic Years
OSU	Assoc. Prof.	Terrestrial Ecology	1975-P	14
Washington State	Res. Asst.	Zoology	1969-72	3
Washington State	Teach. Asst.	Biology	1968-69	1
St. Cloud State	Asst. Instruct.	Biology	1967-68	1
6. Appointment and Promotion at OSU:
Associate Professor - Courtesy, 1975
7. Time (FTE) allocation, 1989-90: n/a
8. Courses taught calendar year 1989:
FRR 451X, Ecological Aspects of Park Management
9. Number of papers/theses/dissertations supervised 1989-90: none
10. Number of papers/theses/dissertations completed 1980-89: 27 papers, 6 theses
11. Extension responsibilities, 1989-90: none
12. Continuing Education responsibilities, 1989-90: none
13. Research Projects, 1989-90:
 Nutritional ecology of Roosevelt elk
 Impacts of adjacent land-use practices on elk of Mt. Rainier National Park
14. Publications, 1985-89, inclusive:

Leslie, D.M., Jr. and E.E. Starkey. 1985. Fecal indices of dietary quality in cervids. *J. Wildl. Manage.* 49:142-146.

Leslie, D.M., Jr., E.E. Starkey, and B. Smith. 1987. Cervid use along an old-growth sere. *J. Mammal.* 68:430-434.

Leslie, D.M., Jr. and E.E. Starkey. 1987. Fecal indices of dietary quality: a reply. *J. Wildl. Manage.* 51:321-325.

Frenzel, R.W., G.W. Witter, and E.E. Starkey. In press. Heavy metal concentrations in a lichen of Mt. Rainier and Olympic National Parks, Washington, USA. *Bull. Environ. Contam. Toxicol.*

Happe, P.J., K.J. Jenkins, E.E. Starkey, and S.H. Sharrow. Nutritional quality and tannin astringency of browse in clearcuttings and old-growth forests. Submitted to *J. Wildl. Manage.* and undergoing minor revisions prior to final acceptance. *Accepted 1990*

Jenkins, K.J. and E.E. Starkey. Food habitats of Roosevelt elk. Submitted to *Northwest Science*. *Accepted by Rangelands*

Frenzel, R.W. and E.E. Starkey. Lead and arsenic content of mountain goat hair in Olympic, Mt. Rainier, and North Cascades National Parks. To be submitted to *Bull. Environ. Contam. Toxicol.*

Field, D.R. and E.E. Starkey. 1985. Oregon State University Cooperative Park Studies Unit Report 85-3. Cooperative Park Studies Unit, College of Forestry, Oregon State University. (brochure)

- Starkey, E.E. 1985. Impacts of fire on non-game wildlife. In: *Rangeland Fire Effects: A Symposium*, edited by K. Sanders and J. Durham. University of Idaho and Bureau of Land Management. Moscow and Boise. pp. 58-61.
- Starkey, E.E. 1985. Elk of Mount Rainier National Park: A review of existing information. Report 85-6, Cooperative Park Studies Unit, College of Forestry, Oregon State University. 18 pp. and appendices.
- Happe, P., K. Jenkins, E. Starkey, and S. Sharrow. 1986. Preliminary nutritional comparison of browse in old-growth forests and clearcuts, Olympic Peninsula, Washington. In D.L. Eastman (ed.) *Proc. Western States and Provinces Elk Workshop*. March 17-19. Coos Bay, Oregon. pp. 275-278.
- Mills, J., E.E. Starkey, and C. Scheeler. 1986. Elk-vegetation monitoring at Mt. Rainier National Park, 1985. Report 86-7, Cooperative Park Studies Unit, College of Forestry, Oregon State University. 73 pp.
- Starkey, E.E. 1986. Vegetation management in arid parks of the Pacific Northwest: A working bibliography. Report 86-2, Cooperative Park Studies Unit, College of Forestry, Oregon State University. 6 pp.
- Frenzel, R.W., G.W. Witmer, and E.E. Starkey. 1987. Concentrations of metals and sulfur in subalpine fir needles and a lichen in Olympic and Mt. Rainier National Parks, Washington. Report 87-2. Cooperative Park Studies Unit, College of Forestry, Oregon State University, Corvallis. 31 pp.
- Frenzel, R.W. and E.E. Starkey. 1987. Concentrations of arsenic and lead in hair of mountain goats from Mt. Rainier, Olympic and North Cascades National Parks, Washington. Report 87-3. Cooperative Park Studies Unit, College of Forestry, Oregon State University, Corvallis. 29 pp.
- Leslie, D.M., Jr., E.E. Starkey, and B.G. Smith. 1987. Ordination as a means of assessing dietary overlap of sympatric cervids. Presentation to American Society of Mammalogists. 67th Annual Meeting. June 21-25, 1987. Albuquerque, New Mexico. (Abstract #263).
- Shelby, B., D. Whitaker, R. Speaker, and E. Starkey. 1987. Social and ecological impacts of recreation use on the Deschutes River Scenic Waterway. State Parks Division, Oregon Department of Transportation, Salem. 295 pp.
- Starkey, E.E. 1987. (A review of) Wildlife in transition by D. Despain, D. Houston, M. Mesgher, and P. Schullery. *Park Science* 7(1):24.
- Starkey, E.E. and G. Larson. 1987. Fish and wildlife research and wilderness in the United States. *Proc. Natl. Wild. Res. Conf. Issues, state-of-knowledge, future directions*. USDA Forest Service Gen. Tech. Report INT-220, Pp. 178-190.
- Jenkins, K., K. Cooper, and E. Starkey. 1988. Ecology of elk inhabiting Crater Lake National Park and vicinity. Report 88-2. Cooperative Park Studies Unit, College of Forestry, Oregon State University, Corvallis. 33 pp.
- Ripple, W.J., E.E. Starkey, and B.J. Schrumpf. 1988. Assessing elk trail and wallow impacts i Mt. Rainier National park. Environmental Remote Sensing Applications Laboratory, Oregon State University, Corvallis. 33 pp. + appendices.
- Clark, R.G. and E.E. Starkey. 1990. Use of prescribed fire in rangeland ecosystems. In J.D. Walstad, S.R. Radosevich, and D.V. Sandberg (eds.) *Natural and Prescribed Fire in Pacific Northwest Forests*. Oregon State University Press. Corvallis. (in press).
- Lee, M. and E. Starkey. In press. Researcher's study nation's newest national park. *Park Science*.

CURRICULUM VITA

Name: Robert G. Anthony

Date and Place of Birth: January 6, 1944
Smith Center, Kansas

Marital Status: Married, two children (Gina, Gregory)

Home Address: 261 SW Wake Robin
Corvallis, Oregon 97330

Telephone: (503) 757-7957

Height: 6'1" Weight: 195 lbs.

Hobbies: Sporting activities in general

Office Address: Oregon Cooperative Wildlife Research Unit
104 Nash Hall
Oregon State University
Corvallis, Oregon 97331

Telephone: (503) 754-4531

ACADEMIC RECORD

1. High School: Kensington High School
Kensington, Kansas

2. Undergraduate Education:

B.S. in Biology, May 1966, Fort Hays Kansas State College,
Hays, Kansas

Honorary Societies - Phi Kappa Phi, Who's Who among Students in
American Colleges and Universities (1966), 7th Calvary Men's
Scholastic Society, Beta Beta Beta, Dean's Honor List 7 of
8 semesters

Undergraduate Activities - Four years of varsity football--
Co-Captain, All Conference, All District Ten, K-Club Presi-
dent, Sigma Phi Epsilon; two years of varsity track

3. Graduate Education:

M.S. in Wildlife Biology, Minor in Botany, August 1968;
Washington State University, Pullman, Washington

Curriculum Vita (continued)
Robert G. Anthony
Page 2

Thesis Title: Ecology and reproduction of California quail in southeastern Washington

Major Professors: Drs. Irvan O. Buss and Vincent S. Schultz

Ph.D. in Zoology with Minor in Statistics; July 1972; University of Arizona, Tucson Research Associate with Arizona Cooperative Wildlife Research Unit

Dissertation: Ecological relationships between white-tailed deer and mule deer in southeastern Arizona

Major Professors: Drs. Norman S. Smith and Lyle K. SOWLS

ACADEMIC EXPERIENCE

Assistant Professor of Wildlife Management, The Pennsylvania State University, 1972-1977.

Research Associate, Arizona Cooperative Wildlife Research Unit, University of Arizona, 1969-1972.

PROFESSIONAL SOCIETIES

The Wildlife Society

Ecological Society

American Society of Mammalogists

TEACHING EXPERIENCE

Mammalogy - 3 credits (1 term/year)

Wildlife Natural History - 3 credits (1 term/year)

Wildlife Biometrics - 3 credits (1 term/year)

RESEARCH INTERESTS

Wildlife Ecology

Dynamics of Wildlife Populations

Application of quantitative procedures to ecological concepts and problems (biometrics, simulation modeling).

Curriculum Vita (continued)
 Robert G. Anthony
 Page 3

RESEARCH EXPERIENCE

NDEA Fellowship (Washington State University) - Master's degree research on "Ecology and reproduction of California quail in south-eastern Washington."

Research Associate (Arizona Cooperative Wildlife Research Unit, University of Arizona) - Ph.D. research on "Ecological relationships between mule deer and white-tailed deer in southeastern Arizona."

Assistant Professor of Wildlife Management (PSU) - Agriculture Experiment Station Projects: 2081 (Distribution, ecology, and population dynamics of the pine vole in Pennsylvania) and 2134 (Responses of wildlife to spray irrigation of chlorinated sewage effluent) Faculty Research Initiation Grant, PSU (Accumulation of heavy metals and characteristics of muskrat populations in relation to water quality in Pennsylvania); Grant No. 14-16-0008-778 from U. S. Dept. of Interior, Fish and Wildlife Service with Dr. G. L. Storm (Activities and movements of the pine vole, *Microtus pinetorum*, in Pennsylvania orchards); Grant from Office of Water Resources Technology, USDI (Ecology and pathology of wildlife in response to spray irrigation of chlorinated sewage effluent).

Graduate students directed, degree, date and thesis topic -

1. Gregg Bierel; MS in Wildlife Management, Summer 1974; Population characteristic and heavy metals in cottontail rabbits and small mammals in relation to spray irrigation of sewage effluent.
2. Ronnie Brenneman; MS in Ecology, Spring 1975; Forage preferences of white-tailed deer (*Odocoileus virginianus*) and winter browse use in a regenerating mixed-oak forest.
3. Allen Gettle; MS in Wildlife Management, Summer, 1975; Activities and movements of pine voles in Pennsylvania orchards (Co-advisor; G. L. Storm).
4. Alan Fisher; MS in Wildlife Management, Winter 1975; Ecology and population characteristics of the pine vole in Pennsylvania.
5. Warren Q. Stump; MS in Wildlife Management, Winter 1975; Population dynamics of meadow voles in relation to habitat type.
6. Jeffrey Everett; MS in Ecology, Winter 1975; Accumulation of heavy metals and population characteristics of muskrat in relation to water quality.

Curriculum Vita (continued)

Robert G. Anthony

Page 4

7. Lawrence Niles; MS in Wildlife Management, Summer 1976; Population parameters and physical condition of small mammals in response to irrigation of sewage effluent.
8. Craig Goldblatt; MS in Wildlife Management, Summer 1977; Heavy metal accumulation in northern fur seals.
9. Jeffrey Spring; MS in Ecology, Fall 1977; Population characteristics of small mammals in forested and old field habitats.

PROFESSIONAL EXPERIENCE

Papers Presented at Scientific Meetings:

1972. Anthony, R. G. Ecological relations between white-tailed deer and mule deer in southeastern Arizona. 1972 Arizona-New Mexico Section of the Wildlife Society, Flagstaff, Arizona.
1972. Anthony, R. G. Interspecies competition between white-tailed deer and mule deer. 1972 Western Students Wildlife Conclave, Tucson, Arizona.
1974. Zarnoch, S. J., R. G. Anthony, and G. L. Storm. Computer simulation of population dynamics of red fox. 1974 Northeast Fish and Wildlife Conference, McAfee, New Jersey.
1975. Anthony, R. G., S. J. Zarnoch, and G. L. Storm. Computer simulated dynamics of a local red fox population. Predator Symposium, American Society of Mammalogists, Missoula, Montana.
1976. Everett, J. J., and R. G. Anthony. Heavy metals and population characteristics of muskrats in relation to water quality in southeastern Pennsylvania. 1976 Northeast Fish and Wildlife Conference, Hershey, Pennsylvania (Accepted for presentation).
1976. Anthony, R. G., and W. Q. Stump. Population parameters of meadow voles in relation to habitat type. Ecological Society Meetings, New Orleans, Louisiana.

VITAE

Dr. Jonathan Bart

Academic Training:

B.S. Syracuse University, 1972, Biology
M.S. Cornell University, 1975, Ecology
Ph.D. Cornell University, 1979, Wildlife Biology

Professional Experience:

1979-90 Assistant Leader, Ohio Cooperative Fish & Wildlife Research Unit, and Associate Professor,
Department of Zoology, Ohio State University, Columbus, Ohio

Research Areas:

Publications in the areas of survey design and evaluation, survival analysis, quantitative analysis, and behavioral ecology.

Professional Societies:

The Wildlife Society
Ecological Society of America
The American Ornithologist's Union
The Cooper Ornithological Society
The Wilson Ornithological Society

Other Professional Activities:

Teach graduate seminars and courses in wildlife biology, biometry, and behavioral ecology. Work primarily with graduate students. Current research projects include demography of tundra swans, use by waterfowl of aquatic vegetation in northern Alaska, analysis of long-term hunting records from the Winous Point Shooting Club, theoretical aspects of the mating systems of rock ptarmigan and house wrens.

CURRICULUM VITAE

John J. Fay

1322 Buttermilk Lane
Reston, Virginia 22090

Date of Birth: 5 September 1946

Education:

B.S.	Fordham College	1968
Ph.D.	City University of New York	1974

Positions Held:

Associate Editor (Flora North America) Department of Botany University of North Carolina Chapel Hill, North Carolina 27514	1973
---	------

Botanist Pacific Tropical Botanical Garden P.O. Box 340 Lawai, Hawaii 96765	1973-1976
--	-----------

Visiting Assistant Curator (Research Associate for Flora of Veracruz) Field Museum of Natural History Roosevelt Rd. at Lake Shore Dr. Chicago, Illinois 60605	1976-1978
---	-----------

Botanist Branch of Biological Support Office of Endangered Species U.S. Fish and Wildlife Service Washington, D.C. 20240	1978-1984
--	-----------

Assistant Chief Branch of Biological Support Office of Endangered Species U.S. Fish and Wildlife Service Washington, D.C. 20240	1984-1987
---	-----------

Botanist
Division of Endangered Species and Habitat
Conservation
U.S. Fish and Wildlife Service 1987-1990

General Biologist
Division of Endangered Species
U.S. Fish and Wildlife Service 1990-present

Memberships:

Science Advisory Committee (chairman)
Center for Plant Conservation 1984-present

Fish and Wildlife Service representative
Species Survival Commission 1985-present

North American Plant Specialist Group
Species Survival Commission 1986-present

Editorial Committee
Flora of North America 1987-present

Partial list of publications:

New species of Mexican Asteraceae. *Brittonia* 25:192-199, 1973.

Chromosome numbers of Asteraceae. In: Aspell Love, IOPB chromosome number reports. *Taxon* 23: 619-620, 1974.

Notes on trees of Lawai-Kai. *The Bulletin, Pacific Tropical Botanical Garden* 4:82-85, 1974.

New combinations in Perymenium and Oteiza (Asteraceae-Heliantheae). *Phytologia* 31: 16-17, 1975.

Perymenium & Oteiza. In: D. L. Nash & L. O. Williams, *Flora of Guatemala. Fieldiana: Botany* 24(12): 280-288, 1976.

Revision of Perymenium (Asteraceae-Heliantheae) in Mexico and Central America. *Allertonia* 1: 235-296, 1978.

Myrtaginaceae. In: *Flora de Veracruz. fascículo* 13, pp. 1-54, 1980.

Selected Federal Register publications:

Endangered and threatened species listing and recovery priority guidelines (listing portion only). 48 FR 43098-43105, September 21, 1983.

Listing endangered and threatened species and designating critical habitat; amended procedures to comply with the 1982 amendments to the Endangered Species Act. 49 FR 38900-38912, October 1, 1984.

Mr. VOLKMER. Now, as I understand it—I think you have pretty well answered this other question that I have—Mr. Jamison and Mr. Beuter, of all the legislation that we're hearing here today, your preference would be with the Huckaby bill. Is that correct? That is, if you had to choose between them—you're not saying any of them are that good, but between them.

Mr. JAMISON. Yes.

Mr. VOLKMER. Where did we get the idea, John, that we had to do pay-as-you-go with these bills?

Mr. BEUTER. That is counsel we have received from OMB.

Mr. VOLKMER. Is that Bob Grady?

Mr. BEUTER. Yes, sir.

Mr. VOLKMER. I don't remember—I know you've mentioned—Bruce Vento's bill has I believe 2.6 harvest levels projected in there.

If you look at the total amount that is set aside interim, et cetera, how realistic is that 2.6?

Mr. BEUTER. We testified before Mr. Vento's committee of our belief that it is impossible to simultaneously do that 2.6 in the 6.2 million acres that he set aside. You can do the 2.6. That is feasible, but not with that amount of acreage not being allowed to be considered.

Mr. VOLKMER. If you had to follow on ASQ and everything else, and law, can you get the 2.6?

Mr. BEUTER. I would like to let John Butruille—

Mr. VOLKMER. John Butruille probably knows better than anybody, so let him answer that.

Mr. BUTRUILLE. Congressman, our estimation is that we could not meet the 2.6 with the 6.3 million acre withdrawal that is in Congressman Vento's bill.

Mr. VOLKMER. If you do not have it now, would you do an estimate for me as to the amount of harvest levels sustainable that you would be able to do in region 6—we'll let somebody else do those four in region 5—under the Vento bill?

In other words, all I'm trying to find out is, What do you project that you could do?

Mr. ROBERTSON. Our estimate is that we can do 2.1 in region 6 under the Vento bill, and 1.1 in region 5.

Mr. VOLKMER. That's more than a 50 percent reduction from what you did in 1989 and 1990. Is that correct?

Mr. BEUTER. That's correct.

Mr. VOLKMER. Does the gentleman from Washington have any questions?

Mr. MORRISON. Mr. Chairman, I just wanted to make sure that in Mr. Smith's request of the Forest Service for an estimate number that we have enough of the background information that went into that because we're working here behind the scenes with a number of assumptions, so we need to know what you included in your calculations for our purposes.

Thank you, Mr. Chairman.

Mr. VOLKMER. Thank you.

The gentleman from Indiana, do you have any further questions?

Mr. JONTZ. If I could be brief, Mr. Chairman, I do want to ask the Forest Service if they feel that they can produce the spotted owl plan by next March.

Mr. ROBERTSON. Yes, we do.

Mr. JONTZ. Thank you.

We have not really gotten into the export issue today, but maybe you can help me on this point, Dr. Beuter, or Chief Robertson.

Are you familiar with the testimony that Dr. Richard Hanes gave before the court in the recent Dwyer case? Are you familiar with that?

Mr. BEUTER. No.

Mr. JONTZ. Is he your economist?

Mr. BEUTER. Forest economist.

Mr. JONTZ. I wanted to see if you were aware of the nature of that testimony, but I will pass on that question.

I have just one more point. Dr. Beuter, it seems to me that the biggest disagreement or difference between what you feel the ideal legislative approach should be and the approach that is taken in my bill, H.R. 842, is that you feel there should be a large category of old-growth areas in which timber harvesting could be permitted on an interim basis. Is that correct?

Mr. BEUTER. No, in the long term.

Mr. JONTZ. Not in the interim, but just in the long term?

Mr. BEUTER. Well, there will be some areas that are already protected by our policies in the interim. We are not intending to change that policy during the interim.

Mr. JONTZ. I think for all practical purposes during the interim—and of course maybe the Congress will choose otherwise—but if we have to live with the Dwyer decision during the interim period, if we got the study going quickly, maybe we could get the study done relatively quickly and there wouldn't be all that much debate over what the interim program would be then.

But looking at the long term, you are of the opinion that timber harvests may be utilized to perpetuate the successional role of the old-growth ecosystem and its interrelationship with other ecosystems. That's the basis upon which you believe that large areas of old growth could be cut. Is that right?

Mr. BEUTER. Yes, sir. When you say large areas of old growth, I am not talking about large contiguous clear cuts, which may be what you're envisioning. What I'm talking about is managing over-large areas of old growth in a sensitive way for the objectives that have been outlined.

Mr. JONTZ. I guess I don't really know what the scientific basis for your conclusion is, but—

Mr. BEUTER. Mr. Jontz, I wish you could have been with me and the members of the recovery team 2 weeks ago in Olympic National Park in which we were in old growth that had never been managed, harvested, or anything else. You could walk for miles through what was essentially 80 to 100 year old timber with a lot of residual big old-growth trees in it. If you were to blink your eyes, you would have thought you were in a managed forest most of the way through that woods.

The interesting thing about those woods was the structure of it. The mix of younger trees, older trees, all as a result of fire and

windstorm. It didn't look a lot unlike forests I have managed myself.

Mr. JONTZ. I suspect that to my eye there might not have been very much difference. I have a lot less confidence than you do in the extent to which our silvicultural activities replicate the natural processes of fire, wind, and disease, and the truth of the matter is that there are folks in the scientific community who are much more knowledgeable about those matters than any of us here.

I am not really opposed to the idea of—in fact, I rather like the idea that a scientific committee that we might designate under legislation, such as H.R. 842, would look at management ideas for those areas that they did not determine should be in reserve status over the long term, from the standpoint of the importance of sustaining the resource.

I really don't see in that regard what complaint you have with my bill. If the scientific committee were to recommend reserves of X amounts, which you obviously agree there could be—that is your first category—and the scientific committee would recommend that some additional acres of some quantity would be cut using these special guidelines, which presumably they could come up with, I don't see where our proposals are really very different.

Mr. BEUTER. Well, if you're proposing that a scientific committee tell us what we should set aside, that's one thing. If you're proposing a group of people that are scientifically qualified—and the way I would set up such a committee would be across a spectrum of biologists, silviculturalists, economists, and others, that are looking at both the human and biological values associated with this—if you're talking about a committee that would suggest, in an advisory role, where the important values were, what was ecologically significant, and then allow that to go through the planning process, we are probably not very far apart.

Your bill suggests that a large amount of the remaining old growth ought to be set aside, the way I read it, particularly with the preamble we discussed.

Mr. JONTZ. I have told you before just to pretend that that preamble doesn't even exist because I don't think that any preamble is going to end up in whatever legislation the Congress passes.

It just seems to me that—but I have no problems with the scientific committee, and I do believe it should be a scientific committee if it relates to management of forests and their sustainability on a long-term basis. I have no objections at all to them making recommendations. In fact, I think it would be a good idea to make recommendations to the agencies about changes in silvicultural practices that might replicate structure reserves.

But intellectually, you agree that both things should occur, that there should be reserves?

Mr. BEUTER. You just repeated back to me my testimony.

Mr. JONTZ. Right. I guess under those circumstances I don't understand why you find my bill to be so dangerous because you're presuming. You're presuming that under my legislation the scientific committee will recommend to the Congress and the Congress will set aside vast areas. We really don't know what that scientific committee would set aside. We can disagree on the interim protection

I admit that my proposals for interim protection and what you would like to see are probably pretty different. But in the court decisions, I think our realm of choices is probably getting a little smaller.

Mr. BEUTER. I will never know that until I get you in the woods, Mr. Jontz.

Mr. JONTZ. I guess my point is that it just seems to me that you're making presumptions that the scientific committee, under my legislation, will decide that we need to set aside great amounts of ancient forests in order to sustain forests as ecosystems.

Mr. BEUTER. There are other problems with your bill. If I recall—and it has been a while since I read it—you also would not have allowed any management in the old-growth forests, and even wouldn't have allowed for protection against fire and—

Mr. JONTZ. That's not correct. You need to go back and read that bill.

Mr. BEUTER. I thought you were much more strict than the other bills in that regard.

Mr. JONTZ. I would encourage you to look at it. I think the point has been made, and I have gone way over my time, with the chairman's generosity.

I really think when we get down to the basic concepts at this point—and I will give credit to the administration for coming here today and endorsing these concepts—I really don't think there's that much difference in terms of the broad concepts. When we get into the specifics of the interim protection, maybe there would be, but again, given the court decision, unless we decide to enact sufficiency language, which there is some disagreement about in the Congress, I don't think we're all that far apart.

I thank the chairman.

I thank the witnesses. We have had some vigorous discussion this morning, and we're done.

Mr. VOLKMER. The gentleman from Oregon.

Mr. KOPETSKI. Thank you, Mr. Chairman. I really appreciate your interest in this issue and the fact that you're willing to dedicate 2 days of our valuable time to hearings on this matter. I think we are getting a good idea—at least for this committee—some directions that we might take and an early introduction to my colleague from Oregon from the very rich timberland area.

I want to talk a little bit about the other committee that has to deal with this issue, the Interior Committee. Many of you are probably aware that the chairman of that committee, Mr. Miller, said that Mr. Huckaby's legislation was "dead on arrival." In his press release, he said that Mr. Huckaby's proposal offers "less protection for ancient forests than presently exists."

My question to the three agencies is, Do you agree that Mr. Huckaby's proposal actually provides less protection for old-growth forests than what exists under current law?

Mr. BEUTER. Excuse me, was that directed at me?

Mr. KOPETSKI. To each of you.

Mr. BEUTER. Could you repeat the question, please?

Mr. KOPETSKI. Congressman Miller says, in his pretty firm opposition to Mr. Huckaby's bill, that his proposal offers "less protec-

tion for ancient forests than presently exists". Do you agree with that or disagree?

Mr. BEUTER. Not the way I have read the Huckaby bill. I see the Huckaby bill essentially attempting to deal with the whole spectrum of issues from old-growth forests, to spotted owls, to providing for the sustainability of dependent communities and families. There is no way of knowing what level of protection will come out of the Huckaby bill because it provides for scientific study, as we have discussed, and it provides for running that through the planning process.

I think there is just as much opportunity within that bill as any of the others to provide adequate protection and management.

Mr. JAMISON. I would concur with Dr. Beuter's statement. I agree.

Mr. KOPETSKI. For the record, could you—

Mr. TURNER. Congressman, I would contest the observation simply because what is currently long-term protection would be in the eye of the beholder. I think you could argue that there is not a long-term strategy, though I think we will get there, for—call them reserves, habitat, conservation areas, owl areas, whatever—it is simply not in place for the long term.

Mr. KOPETSKI. I want to go back to the sufficiency issue and what we do in the interim, the short term, for timber harvests.

If the concept of using the sufficiency language either isn't appropriate because of science or because of politics, then who is thinking about it and trying to come up with some other kind of creative means of addressing that problem. Is anybody in your shops looking at this?

Mr. BEUTER. In order to answer the questions that have been asked by the committee to be submitted in regard to the amount of timber that might be harvested during an interim period, the Forest Service is going to have to look very carefully at their land base in the context of their own standard and guidelines and the requirements of the laws and regulations that dictate the availability and suitability of timber land and the sustainability of harvest.

Having done that, if there were a way to have scientific oversight of that process, a review of it by scientists, somehow there ought to be a way for saying that is sufficient over some reasonable time—2 to 3 years, or whatever it happens to be—to say that we can harvest that amount of timber. Then the actual laying out of those sales, the actual administration of that, ought to be left to the agency—as it is under the law anyhow—for them to implement those plans in a proven professional way.

This just makes sense. We trust people to run our corporations. We ought to be trusting the Forest Service and the Bureau of Land Management to manage their lands. If not them, then who do we want to manage them.

Mr. KOPETSKI. The problem is that if we read these court decisions, the courts at least aren't trusting the process that has occurred.

Mr. BEUTER. The Congress may have an opportunity—and I'm not an expert in what your options are in this regard—to at least for the interim period, given the sorts of things that I described, allow these things to go forward as administrative decisions.

Mr. KOPETSKI. That's food for thought.

Thank you, Mr. Chairman.

Mr. VOLKMER. Dale, later on in the day we're going to have a panel up here including Dr. Johnson. If I review his statement, it appears that in answer to some earlier questions from both the gentleman from Indiana and the gentleman from Oregon that perhaps your ASQ in the past was based on a larger base than you actually had. You said you are based on assumptions that you're operating under. Is that correct?

Mr. ROBERTSON. The plans that we had before the current plans, which were just approved last year, some of the timber base got out of date on us, and it is not due to allocation of land to wilderness, or something like that because we always adjusted for those purposes. But if we went out and found some unstable country and had questions about whether it was appropriate to harvest timber there, some of those adjustments never got cranked in on a current basis on the old plans, but the new plans took all of that into account, everything we knew as of last year.

Mr. VOLKMER. What you are telling me basically is yes because you were harvesting under the old plans and not the new plans and the basis under the old plans were never adjusted for those things, therefore you were harvesting on a basis—

Mr. ROBERTSON. Let me say that they were adjusted for many things, and there were others that they were not adjusted for.

Mr. VOLKMER. The Jack Ward Thomas report, the ISC, called for a system of monitoring on the spotted owls. Is that now in place? Can anybody tell me?

Mr. JAMISON. We monitor all the time on the owls. I don't know if we're monitoring the criteria they wanted or not. I'm not sure of that, sir.

Mr. TURNER. Mr. Chairman, I think what the ISC was asking for was monitoring to give us a long-term estimate of the success or lack of success of certain strategies and set-asides. I don't believe we have that kind of monitoring.

Mr. VOLKMER. That kind of monitoring is not in place?

Mr. TURNER. That is the land managing agencies ourselves and the industry are certainly doing a lot of research and surveying of owls.

Mr. VOLKMER. Before I proceed to let the gentleman from Oregon, not a member of the committee, ask some questions, I would just like to make a few comments. The comments are directed—and he's not here and will probably never hear about them—but I reviewed Judge Dwyer's order, and I find some things in there that concern me. I'm suggesting to everybody who hasn't that they read this court order. It is very clear to me that he has more concern and more caring for the spotted owl than he does for people. I think if you read this order I think you will find that he finds that there really isn't going to be much economic hardship out there, and if it is, well "tough luck." He has that type of attitude.

I think it's incumbent not only on us in the legislature, but I think in the judiciary that they find a little bit of caring also as we go through these processes and as we examine the law. If there is no room for caring, for people, in our law, maybe we need to

change that law so that we have some caring for people as well. I'm not saying that we should not care for any of our species, but I do think that human beings are just as important as other animals, and sometimes I think they're a little more important, personally.

The other thing I would like to comment on is that I am very upset—not with you on the panel—with these methodologies that it appears that the administration has taken through this whole problem. I find very disturbing—last year as some of us were looking at this and trying to resolve it and come up with a solution, everybody said, "Wait until September and the administration is going to come up with a proposal." We worked on one, we were coming up with one, we were going to wait. We got a three page news release, and that's all. We didn't get anything.

So we attempted—Chairman Vento and I both drafted up some type of legislation, and we got hit from both sides because nobody liked it. But I haven't found—and I'm listening here, and I'm not listening to the right people. It's like the gentleman from Virginia said, it appears to me that the administration really isn't doing anything to bring us out of this morass. The administration isn't willing to step up to the plate and take a time at bat.

I'll be honest with you. This subcommittee is going to do something. Right or wrong, I plan to do something, and I am not going to wait any more for this administration. I believe, Mr. Turner, that you all are still dragging your feet. I think this is a recovery process.

Dale, you say you're going to have ROD through the judge by February to be effective in March, but somebody else said that before. Twice that has been said, right? At least, if it wasn't said, we were left with that impression. We got that impression last year.

Mr. ROBERTSON. Yes, by September 30.

Mr. VOLKMER. So it makes me start to wonder if it's really going to happen or isn't it. In the meantime what has happened to the poor people out there is that we have people that are going to be suffering this year. You have people out there—like Mr. Riggs testified, he has an independent contractor that is probably going to go out of business. He isn't going to get any unemployment. There isn't any unemployment for him. He and his family just fell through the cracks. Tough luck. A lot of people are going to go through that.

That's what bothers me about this whole process. Somehow it appears that politics is getting in the way of coming to a solution. Like the gentleman from Virginia, I don't know if it's OMB or where it's coming from. I've even heard speculation that it is policy of the administration to let this thing get so bad that we can get the Endangered Species Act amended or repealed or something. Is that the way to treat people?

In the event you don't, in the meantime we have a lot of people out there that are going to get hurt real bad. As the gentleman from Oregon said, the value of their house is going to be worthless. They are not going to have any place to go. Is that the way we treat Americans just because we want something else? Do a lot of people have to suffer before we do something?

I was reading in Judge Dwyer's opinion—I had never seen this before—the Secretary-level committee was working throughout the summer looking at options. The thought was that they would develop an option and that would be the basis of the announcement, but they never did. They didn't even tell us. They didn't tell anybody. They didn't say anything.

Is that where we're going to end up, Dale? I'm sure you're well-intentioned, and I'm sure that you would have liked to have done it last year, but my question is, Is somebody higher up going to decide come December that we're not going to have it? Mr. Turner, are we going to have a recovery plan?

Mr. TURNER. It is certainly our intent to have a recovery plan.

Mr. VOLKMER. It is certainly your intent to have a recovery plan, but can you sense in me that there is some question in my mind about what is going on and really happening? Do you think I feel that way?

Mr. TURNER. Yes.

Mr. VOLKMER. I do. And I don't think that is being responsible whatsoever.

With that, I will yield to any member of the committee that has any further questions.

If not, the gentleman from Oregon.

Mr. DeFAZIO. Thank you, Mr. Chairman. I appreciate the time, and I appreciate the chairman's observations. I share those. In fact, I have been a proponent of the train wreck theory, but I think perhaps we're all giving the administration too much credit.

What I got today is that we have a train where we have Fish and Wildlife on one car, and BLM and Interior on another car, and Forest Service on another car, and we have the conductors on those cars, and Cy's trying to keep order in his car, and Fish and Wildlife is trying to keep order in this car, and Dale's trying to keep order in his car, but there is no one in the engine and the train is headed toward a precipice, and it just so happens that no one is there. That's the conclusion that I can draw here.

You cannot do it. The Forest Service can't do it in isolation from BLM and Fish and Wildlife. Someone in the administration has to coordinate this thing. Someone there has to take some—and sure, it's not going to be popular. Whatever you do, whatever I do—I'm going to upset people on both sides, and the administration would do the same thing, but the alternative is chaos. The alternative is not certainty for anybody. There is no certainty for those that want to protect the owl and the old growth, and there is no certainty for those that want to protect the viability of the timber industry and the timber-dependent communities and the people who live in those communities.

I agree with the chairman. I am doing my best on Interior to see that we legislate in parallel with this committee.

With that, I now have a couple of questions.

Mr. JAMISON. May I respond to that? I can't let that go by.

Mr. DeFAZIO. Cy, you never let my comments go by. I will yield to you.

Mr. JAMISON. Thank you, sir.

Fortunately or unfortunately, the Congress laid the railroad racks. Not all of us are on those same railroad tracks, and it has been by design.

Second, in this administration, everything that we have proposed, if we have even mentioned the Endangered Species Act, we have been told—not by this committee, but one just next door—“You’re out of luck. Go home.” We were told by the next committee down the hall a little bit further, the Interior Committee, “Don’t even bother to bring it up.”

Most of the things are the process. We’re not after the Endangered Species Act, we’re after the process in it, to fine-tune a little bit to take care of these mega issues, these mega environmental issues like the spotted owl, the desert tortoise, the salmon out in the Columbia Basin—if you add all those up, there is not a mechanical way that we can get through the law. But you have told us time and time again that that is off limits.

Then we go back to the drawing board, and what do we come up with? Some Band-Aids. That’s what I have met as we have been in the process trying to get through to that ultimate conclusion.

It’s a wreck, I agree. But don’t pass it all off on the administration. We have been given a ball to play with, but you have to have the whole court to play on.

Mr. DEFazio. There’s plenty of blame to go around. Thank you.

Mr. JAMISON. I feel better. Thank you.

Mr. DEFazio. Cy, I always make you feel better.

But let’s visit that issue a moment with Mr. Turner.

My understanding of the Endangered Species Act, rudimentary as it is, just looking at the U.S. Code—often we hear that economics has no place. I read that there is a place for economic considerations in the act once the determination is made that something is threatened or endangered. That was done approximately 1 year ago. Is that correct, Mr. Turner? Is that when the final listing was made?

Mr. TURNER. The final listing was in June 1990.

Mr. DEFazio. Almost 1 year. At that time—and I’m reading from S.C. 1533(b)(2), “On the basis of the best scientific data available, after taking into consideration the economic impact, and any other relevant impact of specifying any particular areas critical habitat, the Secretary may exclude any area from critical habitat if he determines that the benefits of said exclusion outweigh the benefits of specifying such area as part of the critical habitat unless he determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species concerned.”

Now, let me ask a couple of questions. Had you adopted Thomas 1 year ago, would Thomas lead to the extinction of the species, according to the scientists?

Mr. TURNER. Congressman, it is not our choice, by law—

Mr. DEFazio. But just let us say—if you had adopted the Thomas report, and you had adopted the HCA’s as critical habitat, would that have led to the extinction of the species, in the opinion of the Thomas Committee? Yes or no? The answer is no.

Mr. TURNER. I disagree with your assumptions, Congressman.

Mr. DEFazio. So what you're saying is that a year ago you listed this bird. The law says that when you list it, you will designate critical habitat. You didn't designate critical habitat a year ago, for whatever reason. You told the judge you couldn't find the maps. So you didn't designate. You didn't designate Thomas, you didn't designate an alternative, and we get down the road a year and suddenly we go from Thomas to critical habitat, and now there are 3 million additional acres. We don't know what we can do in critical habitat. There is still no economic analysis.

Have you followed the law? You didn't follow 318. It's clear that the administration didn't follow 318. That was orders of the Secretary. What is going on here? Why didn't you submit maps at the time of the listing and designate critical habitats and take economics into account as the law allows and specified?

Mr. TURNER. Congressman, as you are aware, we have to adopt critical habitat based on economic analysis. We are in a proposed state, and that is what—

Mr. DEFazio. Why didn't you do it a year ago? Why have you waited a year after the listing? Why did you wait until the judge ordered you to do it?

Mr. TURNER. I think that was a prudent decision. You should base critical habitat the best you can in coordination with the other agencies based on a strategy of a recovery effort.

Mr. DEFazio. The recovery effort won't be done until a year from December.

Mr. TURNER. This was a correct decision to wait until you have overall recovery goals for the owl. The court found that particular decision in error, and that's why we have critical habitat proposals—

Mr. DEFazio. That's not what the law says. The law doesn't say—

Mr. TURNER. The law does not require critical habitat with all listing of species.

Mr. DEFazio. That's correct. It does not. And it allows you to take into account other considerations at that point in time, which we are now just beginning to do, almost a year—you have started a series of hearings in the Pacific Northwest to find out if there is going to be an economic impact. You're going around the Pacific Northwest with a tape recorder.

Mr. TURNER. That is incorrect.

Mr. DEFazio. It is? There is a hearing officer and a tape recorder.

Mr. TURNER. That is an incorrect assumption.

Mr. DEFazio. Let's back off from this. You're going to go through this lengthy development of a rule, and you're going to come back with some proposed changes, and you're going to hold some more hearings. Will you schedule one of those additional hearings in Roseburg, Oregon? And will you or a senior official that has some authority in drawing those maps attend those hearings?

Mr. TURNER. Congressman, your assumption that there was only a tape recorder and a hearing officer—

Mr. DEFazio. My staff went to the hearing.

Mr. VOLKMER. The gentleman from Oregon, please permit the witness to answer you—

Mr. DEFazio. I'm badgering the witness. I'm sorry, Mr. Chairman.

My staff attended the hearing in Creswell and there was a tape recorder, there was the hearing officer—

Mr. TURNER. And there were 10 to 12 staff members of the Fish and Wildlife Service.

Mr. DEFazio. Well, they didn't stand up and raise their hands. I guess they were concerned about the crowd because my staff didn't meet them. One person identified themselves as being with Fish and Wildlife to the crowd.

Mr. TURNER. Congressman, there seems to be a misunderstanding of the purpose of those hearings. The purpose of the hearing is to allow the public, your constituents, to provide us input biologically on the economic analysis. The way you build that record of evidence, it is not a legislative hearing, it is not a debate, it is a format that gives as many of your constituents as possible a chance to provide input. I hope those opportunities are made available.

That hearing was held as all hearings are held in the building of record of evidence in the rulemaking process, whatever Federal agency it is.

Mr. DEFazio. So you're saying that there is no purpose in a senior official, or someone who might or might not have some say over the redrawing of the maps to attend those hearings and listen to the input?

Mr. TURNER. No, senior officials will make decisions based on good biology and good economic analysis of the entire court and building of evidence, input from the hearings, input from specialists, and that will all be weighed as it should in the decisionmaking process. To imply otherwise is incorrect.

Mr. DEFazio. So will they read the entire transcript, or listen to the entire testimony?

Mr. TURNER. I believe that all of that will be carefully weighed. I personally spent, as Director, 2 weeks of my personal time going back through all the evidence I could find in the listing proposal. That kind of thoroughness will happen in the final designation of critical habitat.

Mr. DEFazio. Wouldn't we be a little further ahead if you started this a year ago when you listed the bird, when the law says that you can and should do this?

Mr. TURNER. No, Congressman. If I had my druthers, the court put us on a very short time schedule. I think that was a disservice to the Pacific Northwest and a disservice to the agency. I would prefer to wait until we have the goals and objectives worked out in the recovery process that will help us better to find critical habitat. We would also like to wait until we have the thorough economic analysis, which is underway at this time.

Mr. DEFazio. So we should wait. John, what is your most optimistic estimate of the final adoption of the recovery process?

Mr. BEUTER. The recovery team is operating on a time schedule of having a draft by the end of this year.

Mr. DEFazio. The final adoption—most optimistic.

Mr. BEUTER. I'm not familiar with the entire review process, or how long that would take, but I think it goes well into 1992.

Mr. DEFazio. So Mr. Turner is recommending that we wait until the end of that process in order to deal with the critical habitat.

Mr. TURNER. Congressman, that is incorrect.

Mr. DEFazio. That's what I understood you to say.

Mr. TURNER. I didn't say to wait until the end. The recovery team thinks they can give us input in midsummer on goals and objectives that will help us meet our timeframe on the establishment of critical habitat.

Mr. DEFazio. What can you do in critical habitat? What does it mean?

Just let me give you an example. As someone that comes from a local government background, I had to see my county through the comprehensive land-use planning process. We zone every acre of land in my county. And we have a map that tells you what you can do on all those acres of land, what is permissible under law, and what variances you can apply for.

What I look at is that on 11.6 million acres of private and public land in the Pacific Northwest we have drawn a line and this is designated as critical habitat. When we ask, "What can you do in the critical habitat?" It is not clear. It would be as though we took away all the designations on the zoning map and we just left some lines and said to people, "Well, you buy the parcel, you hire an architect, you give us the plans, and then we'll tell you whether or not it's a buildable lot."

The Forest Service has to go through an extraordinary process to plan timber sales. Should they be planning timber sales in critical habitat, or should they be avoiding it entirely? Should BLM be planning sales in critical habitat, or should they be avoiding it? Or are they all going to be individually conference, at which point they may or may not be allowable? What is the general rule that applies to critical habitat outside of the HCA's? What is the general rule that applies? What is permissible and what is not permissible on public land and private land?

Mr. TURNER. Congressman, as you are aware, we are under a very tight time schedule. We are now providing a meeting with the Forest Service and providing maps and identifying those elements that we felt were important within those lines so that in fact they can plan.

Right now, as you are aware, the critical habitat is not binding, it is only a recommendation, and the conferencing should be taken in that light. It is not analogous to a zoning process, like you undertook in your community, where we tell the agencies they can and cannot do things. It is up to the agency, within the confines of their organic legislation, the needs of coming off their lands to assess actions—whether it's snowmobiling, Christmas tree harvesting, a dam, hydroelectric, a timber cut, a new trail, whatever—they are to assess whether it may impact the habitat.

So it is intended to be flexible, to be coordinated with the land management agency. It was not intended by Congress, nor is it my intent, to set up areas and say that they cannot do this and that.

Mr. DEFazio. So each and every individual action does not have to be conferenced? They only have to conference if they want to conference with you? For each and every action within the critical habitat, outside of the HCA's, it is optional to conference?

Mr. TURNER. It's the same test they have under section 7. Those land management agencies decide that. They undertake an action. Once that's final, we can contest that. Indeed, we do cause problems. That's the conscious overlay that we intended, but it is not a zoning, nor is it—

Mr. DEFazio. So it's not a zoning, or it's not binding, but when they have made their own best determination and they get to the end of the process, you might contest what they have decided to do under your own rules, which are not particularly clear because it's flexible, but it's not mandatory.

Mr. TURNER. I think the track record on spotted owls, the consultation process, would not indicate that we have behaved in that manner. I'm quite proud of the track record that we have on consultation formally under section 7.

Mr. DEFazio. So what about private land? Some people that have private land should just conduct normal activities if they are within the critical habitat?

Mr. TURNER. Congressman, that's the most dramatic contrast with your example of zoning because the critical habitat does not allow us any control over what they do on private lands, except when it requires a Federal action to access that private property. So even to imply that we would dictate, or have the authority over what goes on on private lands is incorrect.

Mr. DEFazio. So private lands—business as usual, unless a Federal action is involved.

And the other qualification—this will be news to some people in the Pacific Northwest.

Mr. TURNER. There has been a great deal of fear engendered by folks who have deliberately tried to mislead them about the impact of critical habitat, but we do not have the authority to zone, as you did, to dictate what goes on on private lands.

There is the catch, of course, that if they have to go to BLM or something to build a new road, to get some new funding, then obviously that is going to constitute a Federal action, and we could impact private property. The other possible impact, when it becomes final, I understand, is that there are some State laws that for one reason have tied themselves to the Federal critical habitat designation. We're trying to research those to see what the impacts of those might be so that we can analyze those in the final rule.

Mr. VOLKMER. Would the gentleman yield?

Mr. DEFazio. Yes, Mr. Chairman. Thank you. You have been very generous.

Mr. VOLKMER. On that, Mr. Turner, I have been informed by my staff that one of the witnesses tomorrow is a private landowner, and that they have been told that they cannot cut any of their timber—which is just salvaged timber that has been burned over—they cannot cut it because it's either critical habitat or HCA. They have been told that.

Mr. TURNER. Our proposed critical habitat, we cannot tell the landowner what to do. When that becomes a final rule, we cannot tell the landowner what to do unless there is the Federal action. We can impact under another section of the law, Mr. Chairman, the action of private landowners if in fact they are involved in the

take of an endangered species—the cutting down of a bald eagle nest, the destruction of—

Mr. VOLKMER. That's—

Mr. TURNER. So I don't understand what—

Mr. VOLKMER. Supposedly there are a pair of spotted owls somewhere off a few miles away from this private landowner, and supposedly—I don't know whether it's HCA or critical habitat—and they have been told that they cannot cut by someone. I'm going to find out tomorrow. If a Fish and Wildlife representative came and told them that, I'm going to tell them to go back out there and cut all the timber they want to. If it was a State agency or something, then I'll have to examine that. But if it was Fish and Wildlife, from what you have told me, I'm going to tell them to go ahead and cut it.

Mr. TURNER. Mr. Chairman, the definition of take obviously involves shooting a bird, cutting down a nest, destroying the home, so to speak. There are court decisions where we have put out guidelines to landowners to try to define it. When you cut other important habitat—and indeed that might be trees around an existing nest because a nest is not going to make it unless you leave some trees around it—I can't imagine if there is a proposed cut several miles from a nest—but the only way you could decide that—Mr. Chairman, if our biologists felt that some trees away from a nest shouldn't be cut is to go to the Justice Department and try to take that landowner to court and get a take violation. I can't predict what the outcome of that would be.

Mr. MORRISON. Would the gentleman yield on this point?

Mr. VOLKMER. I'm just now reading the statement.

Mr. MORRISON. Mr. Chairman, I think what you will find is that in a number of States, including my own State of Washington, that the minute a listing occurs, that you trigger under State law some additional requirements for permits. I think perhaps in this case you might find that this person then needed a State permit in order to proceed with harvest because he needed a State permit somewhere near an owl area that he was potentially denied that.

The problem gets more complex instead of easier as we go along through it.

Mr. VOLKMER. Yes, I'm finding that that is true. The State department of natural resources in the State of Washington would have to inspect my property.

Mr. DEFazio. Mr. Chairman, may I continue with one or two more questions?

Mr. VOLKMER. I understand. I'm not going to blame you, then. It was the State. [Laughter.]

Mr. DEFazio. Mr. Chairman, would you indulge me for just a few more minutes?

Mr. VOLKMER. You have 2 more minutes.

Mr. DEFazio. Thank you, Mr. Chairman. I appreciate it.

When we legislated section 318, 2 years ago, we mandated that a revised plan be put into effect, and the chairman has gone through that, the fact that the action of the agencies were countermanded from a higher level. The question I have is, Who is the higher authority here? We are being told now that the Forest Service is

going to develop—because of the judge's order—such a plan, but when Congress ordered such a plan, it wasn't developed.

If your higher up bosses again send down an order, Dale, that you stop again, does the judge have more clout than Congress because he can lock you away? I guess we can just take away your funding.

What I'm trying to get at is that if we legislate a solution here and we require some agency action, how are we to be assured that those actions will occur and that they won't again be countermanded? Should we have sued to get 318 implemented by our own administration.

Mr. BEUTER. Mr. DeFazio, for whatever reason, right or wrong, the administration went under the assumption that once the burden was listed, you have to remember that they were on one path before the bird was listed, and once the bird was listed it went on another path. The Endangered Species Act required critical habitat, it required a recovery plan, and nobody knew quite how that all was going to come out. But that would seem to be the more stringent requirements to protect the viability of the species.

It was logical to defer to that at that point. It wasn't legal—that has been determined—but it was logical. That was the kind of thinking that went on there. It wasn't that the administration called back the Forest Service and told them not to do it. In fact, the administration, as part of their decision and part of their policy, was to agree to act in a way not inconsistent with Thomas. In fact, had they adopted Thomas, there is a good chance that would have been challenged also. That would have been challenged. That would have been illegal also.

Mr. DEFazio. If I could reclaim my time for a second, at least you would have something to defend in court. When you gave us the press release last fall, and I read the press release, and it said, "This is the administration's plan. We will act not inconsistent with that."

I am not a lawyer, but if I was a judge, and I found out that you weren't acting consistent with the law, and you weren't claiming an exemption from the law, but you were acting not inconsistent with it in terms of complying, I would laugh, drop the gavel, and I would put you under injunction.

I said it would take 5 minutes, and it took 5 or 6 months, but the same thing happened. I don't know what this means, not inconsistent, which apparently the judge doesn't either. It seems to be a new way of complying with the law.

Mr. BEUTER. I agree that there are problems with that, but in the meantime the viability of the owl, to the best of our knowledge, is being accounted for.

Mr. DEFazio. I thank the chairman for the generous granting of time.

Mr. VOLKMER. The gentleman from Indiana is recognized.

Mr. JONTZ. At this point in the record, I would like to put in findings 35 and 36 from Judge Dwyer's decision, which has scientific evidence that in fact there is a problem with the agency moving ahead and that in the view of the judge there are substantial risks that logging another 66,000 acres before the plans are adopted

would push the species beyond the population threshold from which it could not recover.

I would like to put those in the record at this point.

[The findings follow:]

-24-91 08:33AM DOJ LAND GEN DIV

F027 30

06/23/91 13:09 FAX 206 553 2236

US DIST COURT

2002.036

V.
 DEFENDANTS

MAY 23 1991

SEATTLE DISTRICT COURT
 CLERK OF COURT

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 AT SEATTLE

SEATTLE AUDUBON SOCIETY, et al.,
 Plaintiffs,
 v.
 JOHN L. EVANS, et al.,
 Defendants.
 and
 WASHINGTON CONTRACT LOGGERS
 ASSOCIATION, et al.,
 Interveners.

NO. C89-160WD

MEMORANDUM DECISION
AND INJUNCTION

I.

INTRODUCTION

On March 7, 1991, the court entered an order on summary
 judgment declaring unlawful a proposal of defendants John L. Evans,
 et al. (collectively the "Forest Service") to log northern spotted
 owl habitat in national forests located in Washington, Oregon, and
 Northern California without complying with requirements of the
 National Forest Management Act ("NFMA"), 16 U.S.C. § 1600 et seq.

05-24-91 08:34AM DOJ LAND GEN LIT

PUS:CO

05/23/91 10:00 FAX 206 853 2280

US DIST COURT

Wash:DC

1 Order on Motions for Summary Judgment and for Dismissal (Mar. 7,
 2 1991) (Dkt. # 824). On the basis of that order plaintiffs Seattle
 3 Audubon Society, et al. (collectively "SAS") have moved for a
 4 permanent injunction prohibiting the sale of logging rights in
 5 additional spotted owl habitat areas until the Forest Service
 6 complies with NFMA and its regulations by adopting standards and
 7 guidelines to ensure that a viable population of the species is
 8 maintained in the forests. The Forest Service proposes a different
 9 injunction, one that would permit, in the interim, additional sales
 10 in owl habitat if they are consistent with the recommendations of
 11 the Report of the Interagency Scientific Committee to Address the
 12 Conservation of the Northern Spotted Owl ("ISC Report") issued in
 13 April 1990. Intervenor Washington Contract Loggers Association,
 14 et al. (collectively "WCLA") support the Forest Service's proposal.
 15 The two sides agree that the court should set a date for the Forest
 16 Service to adopt a plan to assure the owl's viability.

17 The court granted WCLA's request for an evidentiary hearing on
 18 the scope of injunctive relief, and all parties' request for pre-
 19 hearing discovery. See Charlton v. Estate of Charlton, 841 F.2d
 20 988, 989 (9th Cir. 1988). An order issued April 1, 1991, specified
 21 the subjects for the hearing. Order Setting Evidentiary Hearing re
 22 Injunctive Relief (Dkt. # 867). The hearing began on April 30 and
 23 ended on May 9, 1991. All parties presented evidence, rested their
 24 cases, and gave oral argument through counsel. The evidence
 25 admitted, the arguments and briefs, and the proposed findings
 26 submitted by counsel have been fully considered.

08/23/81 15:10 FAX 208 883 2236

U.S. DIST. COURT

2004-031

II.

HISTORY OF THIS CASE AND
RECENT ADMINISTRATIVE PROCEEDINGS

The national forests are managed by the Forest Service under NFMA. Regulations promulgated under that statute provide that

(fish and wildlife shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area.

36 C.F.R. § 219.19. A viable population is "one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area." *Id.* To insure viability, habitat must be provided to support at least a minimum number of reproductive individuals. *Id.*

Since not every species can be monitored, "indicator species" are observed as signs of general wildlife viability. *Id.*

§ 219.19(a)(1). The northern spotted owl is an indicator species.

While having these conservation duties, the Forest Service is also charged with managing these lands to "provide for multiple use and sustained yield of goods and services from the National Forest System in a way that maximizes long term net public benefit in an environmentally sound manner." *Id.* § 219.1(a). See generally C. Wilkinson & M. Anderson, Land and Resource Planning in the National Forests, 64 *Or. L. Rev.* 1 (1985).

In recent years logging and development have steadily reduced wildlife habitat in the Pacific Northwest. At the same time many local mills have experienced log shortages. The result is an intensified struggle over the future of the national forests.

05-24-91 08:36AM DOJ LAND GEN LIT

P05.36

05/23/91 10:11 FAX 206 553 2206

US DIST COURT

0001-63

1 In 1988 SAS and WCLA sued the Forest Service in this court,
 2 challenging the legality of an administrative decision adopting
 3 standards and guidelines for managing northern spotted owl habitat
 4 in the national forests. The administrative decision was set out
 5 in a Record of Decision ("ROD") issued on December 8, 1988, and an
 6 accompanying Final Supplement to the Environmental Impact Statement
 7 for the Amendment to the Pacific Northwest Regional Guide ("PSEIS").
 8 For opposite reasons, the two sets of plaintiffs challenged the
 9 Forest Service's plan under NFMA and the National Environmental
 10 Policy Act ("NEPA"), 42 U.S.C. § 4321 et seq., and their
 11 implementing regulations.

12 The court consolidated the two cases, ordered them expedited,
 13 and set a final hearing date for June 13, 1989. On March 24, 1989,
 14 the court issued a temporary injunction deferring specified timber
 15 sales in Washington and Oregon for what then appeared to be a few
 16 weeks until the final hearing. Order on Motions for Preliminary
 17 Injunction and for Change of Venue at 2 (Mar. 24, 1989) (Dkt.
 18 # 97).

19 On May 11, 1989, the Forest Service moved for a stay of all
 20 proceedings pending completion of a conference process between
 21 itself and the Fish and Wildlife Service ("FWS"). In a separate
 22 case, Judge Zilly of this district had ruled that the FWS was
 23 acting arbitrarily and capriciously, and contrary to law, in
 24 failing to list the spotted owl as endangered or threatened under
 25 the Endangered Species Act ("ESA"), 16 U.S.C. § 1531 et seq.
 26 Northern Spotted Owl (Strix Occidentalis Caerina) v. Model, 716 F.

05-24-91 08:37AM DOJ LAND GEN LIT

Pub/ 10

05/23/91 13:12 FAX 206 883 2268

U.S. DIST COURT

2006.03.

1 Supp. 479 (W.D. Wash. 1988). On April 23, 1989, having recon-
 2 sidered in response to Judge Zilly's order, the FWS announced its
 3 intent to list the owl as "threatened" under the ESA. SAS and WCLA
 4 agreed that a stay of the present case was warranted so that the
 5 two agencies could consult. The Forest Service proposed a tem-
 6 porary ban on timber sales containing forty or more acres of
 7 spotted owl habitat. This was adopted by order of May 26, 1989.
 8 Order on Motion for Stay (Dkt. # 173).

9 The Forest Service said it would present within thirty days
 10 interim measures to protect spotted owl habitat during the FWS
 11 listing process. It did not do so. Instead it moved on August 24,
 12 1989, for leave to go forward with eleven timber sales that had
 13 been deferred. At that point there was no spotted owl management
 14 plan in effect. The court on its own motion lifted the stay and
 15 ordered an expedited final hearing in these cases. Order Lifting
 16 Stay, etc. (Sept. 12, 1989) (Dkt. # 226).

17 Congress in the meantime was debating legislation which would
 18 provide a short-term supply of national forest and Bureau of Land
 19 Management ("BLM") timber to mills in Washington and Oregon without
 20 having the usual type of agency action subject to judicial review.
 21 The final result was section 318 of the Department of the Interior
 22 and Related Agencies Appropriations Act for Fiscal Year 1990, Pub.
 23 L. No. 101-121, § 318, 103 Stat. 701, 745-50 (1989) ("section
 24 318"), which became law on October 23, 1989. The Congressional
 25 conference committee presented the bill as necessary "because of
 26 the failure of the agencies (i.e., the Forest Service and the BLM)

24-91 00:31AM DOJ LAND GEN LIT
03/23/91 15:13 FAX 206 353 2290 US DIST COURT

FBI/DOJ

Dist. Ct.

1 to take steps on their own to resolve these matters in a manner
2 which could have prevented the current situation." H.R. Conf. Rep.
3 No. 264, 101st Cong., 1st Sess., reprinted in 133 Cong. Res. H6411
4 (daily ed. Oct. 2, 1989).

5 Section 318 included the following provisions, among others:

6 -- It directed the Forest Service and the BLM to offer
7 specified ~~quantities~~ of timber for sale in fiscal years 1989 and
8 1990. Subsection (a).

9 -- It contained restrictions on the cutting of "ecologically
10 significant old growth forest stands" except as necessary to meet
11 the sales quota, barred logging in certain "spotted owl habitat
12 areas," and adopted temporarily (with a few modifications) the
13 standards and guidelines proposed in the Forest Service's December
14 1988 RCD. Subsections (b)(1), (2) and (3).

15 -- It stated that Congress "determines and directs" that
16 management of the forests for fiscal years 1989-90 according to its
17 provisions "is adequate consideration for the purpose of meeting
18 the statutory requirements that are the basis for [the present
19 cases and a similar case pending in the District of Oregon]."
20 Subsection (b)(6)(A).

21 -- It directed the Forest Service to prepare a new spotted
22 owl plan and have it in place by September 30, 1990:

23 The Forest Service is directed to review and revise
24 as appropriate the decision adopted in the December 1988
25 Record of Decision referenced in subsection (b)(6)(A) of
26 this section and shall consider any new information
gathered subsequent to the issuance of the Record of
Decision, including the interagency guidelines for con-
servation of northern spotted owls developed by the
Interagency Scientific Committee to address conservation

05-24-91 08:38AM DOJ LAND GEN LIT

P08/05

05/23/91 10:14 FAX 206 333 2286

US DIST COURT

4004 0:

of the northern spotted owl. This review, and any resulting changes to the December 1988 decision determined to be necessary by the Forest Service are to be completed and in effect not later than September 30, 1990.

subsection (b)(6)(B).

On November 6, 1989, this court vacated the preliminary injunction because section 318 had become law as to 1989-90 timber sales. The court construed the statute as a temporary amendment of the environmental laws, and therefore rejected SAS's constitutional challenge to subsection (b)(6)(A). Memorandum Decision Re Constitutionality (Nov. 14, 1989) (Dkt. # 278).

An interlocutory appeal was certified under 28 U.S.C. § 1292(b). The court of appeals declined to stay the application of section 318 pending appeal.

Over the next several months the parties proceeded under section 318. SAS brought a series of challenges to timber sales under the standards of the temporary statute. On May 11, 1990, this court entered an order on the first such challenge, enjoining the Cowboy sale in the Umpqua National Forest. (Dkt. # 389). On appeal by the Forest Service, the court of appeals affirmed in an unpublished opinion filed August 27, 1990. Seattle Audubon Soc'y v. Robertson, No. 90-35519 (9th Cir. 1990).

Other challenges to 1990 timber sales followed the district court decision on the Cowboy sale. The court enjoined three sales on the basis that the Forest Service had not complied with section 318; the agency withdrew two other sales after a motion for summary judgment was filed; and the court found for the Forest Service as

05-24-91 08:39AM DOJ LAND GEN LIT

P09/36

05/23/91 10:18 FAX 206 853 2256

U.S. DIST COURT

6000-031

1 to one sale. (Dkt. §§ 459, 468, 477). No party appealed from
2 these rulings.

3 On September 18, 1990, the court of appeals issued an opinion,
4 and on October 30 an amended opinion, finding the first sentence of
5 section 318 (b)(6)(A) unconstitutional under the separation of
6 powers doctrine. Seattle Audubon Soc'y v. Robertson, 914 F.2d 1311
7 (9th Cir. 1990).

8 The appeal to the Ninth Circuit concerned the part of section
9 318 in which Congress "determines and directs" that management of
10 the forests in 1989-90 according to subsections (b)(3) and (b)(5)
11 "is adequate consideration for the purpose of meeting the statutory
12 requirements" underlying the cases in this district and in Oregon.
13 The court of appeals ruled that this provision was not a temporary
14 amendment of the environmental laws but rather an unconstitutional
15 attempt to adjudicate rather than legislate. The requirements of
16 section 318 were thus held to be in addition to, and not in lieu
17 of, those of the general environmental statutes. The decision did
18 not affect the other parts of section 318.

19 While the above-described events were taking place, federal
20 administrative agencies took further action regarding the spotted
21 owl. The Interagency Scientific Committee was established in 1989
22 by agreement of the Forest Service, the Bureau of Land Management
23 of the Department of the Interior, the Fish and Wildlife Service,
24 and the National Park Service. Its mission was "to develop a
25 scientifically credible conservation strategy for the northern
26 spotted owl in the United States." Hearing Exhibit ("Exh.") 1 at

5-24-91 08:40AM DOJ LAND GEN LIT

F10/30

08/23/91 10:10 FAX 208 333 2200

US DIST COURT

0010-03

1 1. On April 2, 1990, the ISC issued its report. See 55 Fed. Reg.
 2 40412, 40413; Report of the Interagency Scientific Committee to
 3 Address the Conservation of the Northern Spotted Owl, A Conserva-
 4 tion Strategy for the Northern Spotted Owl (U.S.D.A., et al. 1990)
 5 (Exh. 1).

6 In June 1990 the Fish and Wildlife Service, having completed
 7 the listing process, listed the owl as a threatened species under
 8 the Endangered Species Act. Determination of Threatened Status for
 9 the Northern Spotted Owl, 55 Fed. Reg. 26114.

10 The Forest Service did not comply by the deadline of Septem-
 11 ber 30, 1990 -- or at all -- with section 318's requirement that it
 12 adopt a revised plan to ensure the owl's viability.

13 On September 28, 1990, the Department of Agriculture gave
 14 notice that the Forest Service was vacating the December 1988
 15 Record of Decision, and that it would manage timber sales in a
 16 manner "not inconsistent with" the ISC Report. 55 Fed. Reg. 40413
 17 (1990). This announcement was made without notice, hearing,
 18 environmental impact statement, or other rule-making procedures.

19 On December 18, 1990, this court enjoined the Forest Service
 20 from proceeding with twelve proposed fiscal year 1990 timber sales
 21 because the agency had failed to comply with NFMA by having any
 22 standards and guidelines for spotted owl viability in place. The
 23 order reaffirmed what the court of appeals had already held, i.e.,
 24 that section 318 did not displace NFMA. Order on Motions Heard
 25 December 5, 1990 (Dec. 18, 1990) (Ekt. # 757). Leave was granted
 26 to the Forest Service to pursue a newly-raised argument that its

05-24-91 08:41AM DOJ LAND GEN LIT

P11/35

05/23/91 18:17 FAX 206 888 2206

US DIST COURT

2011-036

1 duty under NFMA to maintain the species ended when the listing
2 under ESA occurred. *Id.*

3 On February 26, 1991, Judge Silly ruled in No. C88-8732 that
4 the FWS had again failed to comply with the law, stating:

5 Upon the record presented, this Court finds the
6 [Fish and Wildlife] Service has failed to discharge its
7 obligations under the Endangered Species Act and its own
8 administrative regulations. Specifically, the Service
9 acting on behalf of the Secretary of the Interior, abused
10 its discretion when it determined not to designate
11 critical habitat concurrently with the listing of the
12 northern spotted owl, or to explain any basis for con-
13 cluding that the critical habitat was not determinable.
14 These actions were arbitrary and capricious, and contrary
15 to law. 5 U.S.C. § 706.

16 Northern Spotted Owl (*Strix Occidentalis* CAURINAL) v. Lujan, 758 F.
17 Supp. 621, 629 (W.D. Wash. 1991).

18 The Forest Service's argument in this case that it was
19 relieved of its NFMA duty to plan for the spotted owl's viability
20 once the species was listed by the FWS as "threatened" was rejected
21 in an order entered March 7, 1991. Order on Motions for Summary
22 Judgment and for Dismissal (Dkt. # 824.) The court found not only
23 that the argument was insupportable, but that "the Forest Service
24 has understood at all times that its duties under NFMA and ESA are
25 concurrent." *Id.* at 15. Accordingly, summary judgment was granted
26 determining that the Forest Service's proposal to log spotted owl
habitat without complying with NFMA was unlawful.

WCLA's complaint was dismissed as moot, without opposition,
because the 1988 ROD which it challenged had been withdrawn. *Id.*
at 25. WCLA was then allowed to intervene in the SAS action, and

US-24-91 08:42AM DOJ LAND GEN LIT

P12/90

05/23/91 10:10 FAX 208 853 2200

US DIST COURT

0012.030

thus remains a party. Order Granting Motion for Leave to Intervene
(Apr. 1, 1991) (Dkt. # 860).

III.

AMICUS CURIAE BRIEF OF SISKIYOU COUNTY

On May 16, 1991, a week after the evidentiary hearing ended, the Board of Supervisors and Office of Education of Siskiyou County, California ("Siskiyou County"), sought leave to file a brief amicus curiae. Leave was granted, the brief has been filed, and SAS has responded.

Siskiyou County's brief is untimely but has nevertheless been fully considered on the merits. It argues that SAS has no standing to seek relief relating to national forests in Northern California, as distinguished from those in Washington and Oregon; and that, if SAS does have standing, any injunctive relief (even in the form proposed by the Forest Service) should exclude Northern California.

The Forest Service's Federal Register notice that the court found to be an unlawful proposal to log owl habitat without compliance with NFMA applied to four national forests in Northern California (in Forest Service Region 5) as well as to thirteen in Oregon and Washington (in Region 6). 55 Fed. Reg. 40412, 40414 (1990). SAS's amended complaint alleges the illegality of the proposed timber sales in the forests of Northern California as well as in those of Washington and Oregon. Second Amended Complaint at ¶¶ 8, 18, 23, and First Claim for Relief at ¶ 1 (Dkt. # 731). The order granting summary judgment ruled that the "agency's failure to date to comply, or begin compliance, with NFMA requirements is

03-24-91 00:43AM DOJ LAND GEN DIV

P13.03

03/23/91 10:10 FAX 206 653 2206

US DIST COURT

@13.03t

1 arbitrary and capricious, and not in accordance with law." Order
2 of March 7, 1991 at 26 (Dkt. # 824). The proposal to log owl
3 habitat in the four Northern California forests without NFMA
4 compliance was not excepted from the ruling.

5 As to standing, SAS has challenged an agency action that
6 affects a bird threatened throughout its range. The issue is not
7 limited to specific actions and wounds. As the ISC has noted:
8 "Spotted owls, after all, are oblivious to our political and
9 institutional boundaries." Exh. 1 at 41. SAS's standing as a
10 party "adversely affected or aggrieved" has already been
11 established. See Order of March 7, 1991 at 8 (Dkt. # 824);
12 Declaration of Bonnie Phillips-Howard (Jan. 14, 1991) (Dkt. # 783);
13 Lujan v. National Wildlife Fed'n, 110 S. Ct. 3177, 3185-86 (1990).
14 SAS's motion for leave to file additional declarations showing
15 standing is not necessary, but is granted in order to complete the
16 record.

17 As to the geographic scope of the injunction, Siskiyou
18 County's argument is that the spotted owl's viability will not be
19 harmed by habitat destruction in Northern California because
20 habitat develops faster there -- on the order of fifty or eighty
21 years rather than perhaps a hundred and fifty years farther north.
22 However, the FWS has listed the owl as threatened in Northern
23 California as well as elsewhere. 55 Fed. Reg. 26114. The ISC has
24 identified "areas of special concern" in Northern California, and,
25 even under its recommended plan, estimates only a "low" or
26

08/23/91 18:18 FAX 206 353 2256

US DIST COURT

M014-031

1 "moderate" prospect of viability in three of the area's four
2 "physiographic provinces" in fifty years. Exh. 1 at 68, 386.

3 Nothing has been presented that would justify excluding the
4 four Northern California forests, either on biological or economic
5 grounds, from injunctive relief, regardless of whether SAS's or the
6 Forest Service's proposed order is adopted.

7 IV.

8 STANDARDS GOVERNING INJUNCTIVE RELIEF

9 The standards governing whether and to what extent a permanent
10 injunction should issue are summarized in Friends of the Earth v.
11 Hall, 693 F. Supp. 904, 948 (W.D. Wash. 1988):

12 In determining whether to issue an injunction where
13 statutory violations have occurred, the court must engage
14 in a two part analysis. See Amoco Prod. Co. v. Village
15 of Gambell, Alaska, 480 U.S. 531, 107 S.Ct. 1396, 1402-
16 04, 94 L.Ed.2d 942 (1987); Save the Yaak Committee v.
17 Block, 840 F.2d 714, 722 (9th Cir. 1988). First, the
18 court must determine whether the statute restricts the
19 court's equity jurisdiction, that is whether the statute
20 would either require or preclude issuance of an injunc-
21 tion to remedy a violation. Village of Gambell, 107
22 S.Ct. at 1403; Weinberger v. Romero-Barcelo, 456 U.S.
23 305, 313, 102 S.Ct. 1798, 1803, 72 L.Ed.2d 91 (1982). If
24 the court finds that no such limitation can be found
25 either in the statutory language itself or as a necessary
26 and inescapable inference of the statutory text, then the
court must engage in traditional equity balancing to
determine the appropriateness of an injunction. Village
of Gambell, 107 S.Ct. at 1402; Save the Yaak, 840 F.2d at
722.

27 Nothing in NFMA alters the court's equity jurisdiction. The
28 traditional "basis for injunctive relief in the federal courts has
always been irreparable injury and the inadequacy of legal
remedies." Weinberger v. Romero-Barcelo, supra, 456 U.S. at 312.

03-24-91 08:40AM DOJ LAND GEN LIT

P137

03/23/91 18:20 FAX 206 853 2286

US DIST COURT

201

In Village of Gambell, supra, 400 U.S. at 345, the Court

stated:

Environmental injury, by its nature, can seldom be adequately remedied by money damages and is often permanent or at least of long duration, i.e., irreparable. If such injury is sufficiently likely, therefore, the balance of harms will usually favor the issuance of an injunction to protect the environment.

However, the party seeking relief must show not merely a statutory violation, but a probability of injury serious enough to outweigh any adverse effects from the issuance of an injunction.

Id.

V.

FINDINGS OF FACT

The evidentiary hearing held from April 30 to May 9, 1991, provided a wealth of information. Expert testimony of high quality from biologists, economists, and others was presented by both sides. From the evidence admitted at the hearing the court makes and enters the following findings of fact:

A. Background Findings

1. The fate of the spotted owl has become a battleground largely because the species is a symbol of the remaining old growth forest. As stated in the ISC Report:

Why all the fuss about the status and welfare of this particular bird? The numbers, distribution, and welfare of spotted owls are widely believed to be inextricably tied to mature and old-growth forests. Such forests have been significantly reduced since 1850 (mostly since 1950) by clearing for agriculture, urban development, natural events such as fire and windstorms, and most significantly, by logging in recent decades. Nearly all old growth has been removed on private lands. Most of the remainder is under the management of the BLM,

05/23/91 10:21 FAX 208 533 2286

US DIST COURT

0010-036

FS, and NPS on Federal lands. As its habitat has declined, the owl has virtually disappeared from some areas and its numbers are decreasing in others.

Exh. 1 at 7.

2. An old growth forest consists not just of ancient standing trees, but of fallen trees, snags, massive decaying vegetation, and numerous resident plant and animal species, many of which live nowhere else.

3. A great conifer forest originally covered the western parts of Washington, Oregon, and Northern California, from the Cascade and Coast mountains to the sea. Perhaps ten percent of it remains. The spaces protected as parks or wilderness areas are not enough for the survival of the northern spotted owl.

4. The old growth forest sustains a biological community far richer than those of managed forests or tree farms. As testified by Dr. William Farrall, a forest ecologist:

The most significant implication from our new knowledge regarding old-growth forest ecology is that logging these forests destroys not just trees, but a complex, distinctive, and unique ecosystem.

Exh. 12 at 6.

5. The remaining old growth stands are valued also for their effects on climate, air, and migratory fish runs, and for their beauty. A 1984 Forest Service document summed up the controversy:

There are at least three main reasons cited for maintaining old growth: wildlife and plant habitat, ecosystem diversity, and preservation of aesthetic qualities. Those opposed to the retention of old growth are primarily concerned with economic factors and urge rapid conversion of the existing old growth to managed forests of productive, young age classes.

05/23/97 18:22 FAX 206 883 2286

13 DIST COURT

4017.036

1 Pacific N.W. Region, United States Forest Service, United States
 2 Dep't of Agric., Regional Guide for the Pacific Northwest Region at
 3 p. 3-40 (May 1984), attached as Exh. F to Second Declaration of
 4 Corrie Yackulic (July 26, 1990) (Dkt. # 445).

5 6. Through most of the country's history there was little
 6 no logging in the national forests. Intensive logging began with
 7 World War II and has accelerated.

8 7. NFMA was adopted in 1976, after three decades of heavy
 9 logging, in the hope of serving both wilderness and industry
 10 values. Senator Humphrey of Minnesota, a sponsor of the act,
 11 stated:

12 The days have ended when the forest may be viewed only as
 13 trees and trees viewed only as timber. The soil and the
 14 water, the grasses and the shrubs, the fish and the
 15 wildlife, and the beauty that is the forest must become
 16 integral parts of resource managers' thinking and
 17 actions.

18 122 Cong. Rec. 5619 (daily ed. Mar. 3, 1976).

19 8. Despite increasing concern over the environment, logging
 20 sales by the Forest Service have continued on a large scale.
 21 Timber harvests in the national forests in Washington and Oregon
 22 ranged from 4.448 billion to 5.082 billion board feet per year in
 23 1985 through 1989, amounting to between 30% and 33% of the total
 24 harvested in those states in those years.

25 9. Some major firms in the Pacific Northwest have extensive
 26 private forests and need little or no wood from public sources.
 Many small mills and logging companies depend in whole or in part
 on federal timber.

10. Mill owners and loggers, and their employees, especially in small towns, have developed since World War II an expectation that federal timber will be available indefinitely, and a way of life that cannot be duplicated elsewhere.

11. The region's timber industry has been going through fundamental changes. The most important is modernization which increases productivity and reduces the demand for labor (i.e., the jobs available). There have also been recent changes in product demand, in competition from other parts of the country and the world, and in the export of raw logs for processing in the Far East. The painful results for many workers, and their families and communities, will continue regardless of whether owl habitat in the national forests is protected.

B. Statutory Violations

12. The records of this case and of No. C88-573Z show a remarkable series of violations of the environmental laws. The Forest Service defended its December 1988 ROD persistently for nearly two years. Congress was persuaded in 1989 to adopt most of the ROD standards as a temporary measure in section 318. But in the fall of 1990 the Forest Service admitted that the ROD was inadequate after all -- that it would fail to preserve the northern spotted owl. In seeking a stay of proceedings in this court in 1989 the Forest Service announced its intent to adopt temporary guidelines within thirty days. It did not do that within thirty days, or ever. When directed by Congress to have a revised ROD in place by September 10, 1990, the Forest Service did not even

1 attempt to comply. The FWS, in the meantime, acted contrary to law
 2 in refusing to list the spotted owl as endangered or threatened.
 3 After it finally listed the species as "threatened" following Judge
 4 Sily's order, the FWS again violated the ESA by failing to design-
 5 nate critical habitat as required. Another order had to be issued
 6 setting a deadline for the FWS to comply with the law.

7 13. The reasons for this pattern of behavior were made clear
 8 at the evidentiary hearing.

9 Dr. Eric Forsman, a research wildlife biologist with the
 10 Forest Service, testified, in regard to the 1988 ROD and other
 11 Forest Service plans for the spotted owl that preceded the ISC
 12 Report:

13 Q. Were you satisfied at the time with the results
 14 of those previous works?

15 A. No. On all of those plans, I had considerable
 16 reservations for a variety of reasons. But primarily
 17 because in every instance, there was a considerable -- I
 18 would emphasize considerable -- amount of political
 19 pressure to create a plan which was an absolute minimum.
 20 That is, which had a very low probability of success and
 21 which had a minimum impact on timber harvest.

22 Hearing Transcript ("Tr.") at 801-02.

23 George M. Leonard, associate chief of the Forest Service,
 24 testified that the agency experts began in early 1990 the work
 25 needed to have a revised plan in place by September 30 of that
 26 year, as Congress mandated in section 318. But the Secretaries of
 Agriculture and Interior decided to drop the effort. The public
 was not told of this decision to ignore what the law required. Mr.
 Leonard testified:

THE COURT: When was it in 1990 that you ceased your
 effort to meet that September 30 deadline of Section 318?

1 A. When the Secretary of Agriculture and Secretary
2 of Interior began discussion, they appointed an inter-
3 agency team to look at options to the Interagency
4 Scientific Committee report and whatnot. So, it was --
5 in effect, it was escalated above the Forest Service to
6 the secretarial level.

7 THE COURT: And when in 1990 did that happen?

8 A. I think it was about in May, but I don't know
9 precisely the date.

10 THE COURT: Was any public announcement made at any
11 time before October 1990 to the effect that the Forest
12 Service was not going to publish a revised ROD by the end
13 of September?

14 A. No, there was not.

15 THE COURT: Was there any reason that you know of
16 that that wasn't announced?

17 A. It was the -- the Secretary-level committee was
18 working throughout the summer looking at options. And
19 the thought was that they would develop an option and
20 that would be the basis for the announcement.

21 THE COURT: But they never did?

22 A. They never did, no.

23 Tr. at 383-84.

24 The Forest Service had been expressly directed by Congress in
25 section 318 to consider the ISC recommendations in arriving at the
26 ROD to be issued by September 30, 1990. Dr. Jack Ward Thomas, team
27 leader of the ISC, testified to what happened after his committee's
28 report was issued:

29 Q. After your report was finalized, was it subject
30 to any additional review?

31 A. Yes, it was.

32 Q. What occasioned that subsequent review?

33 A. After the initial release of the report, there
34 was a political decision made by the administration to
35 appoint a cabinet-level review team that would examine
36 the report, a task force that would examine the report,
37 with the idea of seeing if there was some alternative
38 course of action that would be less dramatic economically
39 and socially.

40 Tr. at 985-86.

05-24-91 08:50AM DOJ LAND GEN LIT

P21.36

05/23/91 10:20 FAX 206 853 2286

US DIST COURT

05/21/91

1 14. Had the Forest Service done what Congress directed it to
2 do -- adopt a lawful plan by last fall -- this case would have
3 ended some time ago.

4 15. More is involved here than a simple failure by an agency
5 to comply with its governing statute. The most recent violation of
6 NFMA exemplifies a deliberate and systematic refusal by the Forest
7 Service and the FWS to comply with the laws protecting wildlife.
8 This is not the doing of the scientists, foresters, rangers, and
9 others at the working levels of these agencies. It reflects
10 decisions made by higher authorities in the executive branch of
11 government.

12 C. Time Needed for Forest Service to Comply With NFMA

13 16. The Forest Service seeks an allowance of fifteen more
14 months, or until July 31, 1992, to prepare a new ROD and environ-
15 mental impact statement. Another month would have to pass before
16 the ROD could take effect. The agency thus proposes to accomplish
17 by August 31, 1992, the step that Congress directed it to complete
18 by September 30, 1990. The sixteen months, according to the
19 testimony of Mr. Leonard, "would include several months for analy-
20 ing comments and preparing the final document." Tr. at 368. But
21 the agency declines to make a firm prediction about even this
22 extended timetable. Mr. Leonard testified that two or three years
23 might go by before his agency reached a decision, depending on
24 future developments such as FWS's promulgation of a species
25 recovery plan. See Tr. at 370-71, 374.

26

05/23/91 10:27 FAX 308 533 2263

US DIST COURT

4022 USE

1 17. Further delays of this magnitude are neither necessary
2 nor tolerable.

3 18. In adopting section 312, which became law on October 23,
4 1989, Congress directed the Forest Service to have a revised
5 spotted owl plan in effect eleven months later. Subsection
6 (b)(6)(B). In doing so Congress made clear that it expected full
7 compliance. Representative Jucius, a supporter of the legisla-
8 tion, stated:

9 I want to put the Forest Service on notice right
10 now, Madam Speaker, that we expect the Forest Service to
11 complete, to adopt, and to implement new forest plans in
12 the coming year. Thirteen years have passed since the
13 enactment of the National Forest Management Act; 4 years
14 have passed since the deadline for completion of initial
15 forest plans. We should not have to be here on the floor
16 today to cover this agency's mistakes, but yet we are
17 here.

18 135 Cong. Rec. H5506 (daily ed. Oct. 3, 1989).

19 19. According to Mr. Leonard's testimony, the Forest Service
20 began work in early 1990 to meet the congressional deadline. It
21 had been directed in section 312 to consider the forthcoming ISC
22 Report. The report came out in April. Work was then stopped by a
23 decision made at the cabinet level. Tr. at 381-84.

24 20. The Forest Service now has advantages it lacked in early
25 1990. Much of the research and analysis has been done. The ISC
26 Report, a thorough treatment, has been in existence for more than a
year. The agency also has the benefit of an opinion letter from
the FWS dated April 10, 1991, commenting at length on the ISC
strategy and giving recommendations. Exh. A-7.

08/23/91 10:20 FAX 206 883 2266

U.S. DIST. COURT

7023-036

21. With the knowledge at hand, there is no reason for the Forest Service to fail to develop quickly a plan to ensure the viability of the spotted owl in the national forests. Coordination with the FWS need not be an obstacle; the agencies have coordinated their efforts on other species, and can on this one. The job could be completed in less time than was allowed by Congress in 1980 when it adopted section 116. However, equal time of eleven months will be afforded. The time will run from April 1, 1991, when the court ordered the agency to proceed diligently in compliance with NFMA. (Dkt. # 867). A new ROD with accompanying EIS will thus be due on February 3, 1992, to take effect on March 3, 1992. The net result is that the agency has a seventeen-month extension to complete the job that Congress mandated be done by September 30, 1990.

D. Probability of Irreparable Harm

22. The northern spotted owl is now threatened with extinction. The ISC Report states:

We have concluded that the owl is imperiled over significant portions of its range because of continuing losses of habitat from logging and natural disturbances. Current management strategies are inadequate to ensure its viability. Moreover, in some portions of the owl's range, few options for managing habitat remain open, and available alternatives are steadily declining throughout the bird's range. For these reasons, delay in implementing a conservation strategy cannot be justified on the basis of inadequate knowledge.

Exh. 1 at 1.

The FWS has found that the owl is threatened throughout its range. 55 Fed. Reg. 26114.

05-24-91 08:52AM DOJ LAND GEN LIT

P24/36

05/23/91 13:20 FAX 206 583 2246

US DIST COURT

05/24/91

1 23. The population of northern spotted owls continues to
2 decline. "We're going to have to arrest that decline and reverse
3 it," as Dr. Thomas testified. Tr. at 1007.

4 24. "Spotted owl habitat," also called "suitable habitat," is
5 defined as follows by FWS:

6 Suitable owl habitat has moderate to high canopy closure
7 (60 to 80 percent); a multi-layered, multi-species canopy
8 dominated by large (> 30 inches in diameter at breast
9 height (dbh)) overstory trees; a high incidence of large
10 trees with various deformities (e.g., large cavities,
11 broken tops, dwarf-mistletoe infections, and other evi-
12 dence of decadence); numerous large snags; large
13 accumulations of fallen trees and other woody debris on
14 the ground; and sufficient open space below the canopy
15 for owls to fly.

16 55 Fed. Reg. 26114, 26116 (1990).

17 The same definition is used in the ISC Report (Exh. 1 at 164),
18 and is adopted for purposes of this order.

19 25. The Forest Service estimates that an additional 66,000
20 acres of spotted owl habitat would be destroyed if logging went
21 forward to the extent permitted by the ISC Report over the next
22 sixteen months. That would be in addition to about 400,000 acres
23 of habitat logged in the seven years since the agency began prepar-
24 ing these guidelines, all without having a lawful plan or EIS for
25 the owl's management in place.

26 26. The ISC Report recommends standards and guidelines aimed
at assuring the owl's long-term viability. The strategy contains
seven major components: four categories of habitat conservation
areas ("HCAs"), two different spacing requirements between HCAs,

US-24-91 08:53AM DOJ LAND GEN LIT

P25/35

03/23/01 13:30 FAX 202 533 2256

US DIST COURT

4-22-01

1 and the 50:11:40 rule. Exh. 1 at 28-29, 283-343 (Appendices O, P
2 Q).

3 27. No timber management activities may take place in HCAs.
4 Category 1 HCAs are designed to hold twenty or more pairs of
5 spotted owls. Exh. 1 at 28, 315 (Appendix Q). Category 2 HCAs are
6 designed to hold between two and nineteen pairs. Id. Category 3
7 HCAs are placed around single pairs of owls in areas of special
8 concern identified by the ISC. Id. at 332 (Appendix Q). Category
9 4 HCAs are designed for the retention of eighty acres of suitable
10 habitat around core areas to provide for connectivity in the forest
11 matrix and future nest sites. Id. at 29, 315.

12 28. Category 1 HCAs can be no more than twelve miles, Category 2
13 HCAs no more than seven miles, from the nearest neighbor.
14 Exh. 1 at 26 and 320.

15 29. The ISC's standards and guidelines also specify the type
16 of habitat to be found in the intervening landscape, via the
17 50:11:40 rule. That rule requires that at least fifty percent of
18 the forested landscape outside HCAs be maintained in stands of
19 timber with an average diameter at breast height of eleven inches
20 or greater, and at least 40% canopy closure. Exh. 1 at 29, 309-
21 10.

22 30. The ISC's strategy is map-based. Exh. 1 at 29. Using
23 the standards and guidelines outlined above, the ISC has delineated
24 the HCAs on the ground. Id. Maps showing the delineation of
25 Category 1 and 2 HCAs accompany the report. Exh. 1, Maps.
26

08/23/91 18:31 FAX 206 883 2236

US DIST COURT

2026 01

31. The ISC Report has been described by experts on both sides as the first scientifically respectable proposal regarding spotted owl conservation to come out of the executive branch.

However:

(a) To have a chance of success, the strategy would have to be adopted and followed by the agencies concerned. So far it has not been adopted by any agency. The BLM, which manages extensive old growth forests, has declined to implement the strategy in full. This causes concern even to the experts relied upon by the Forest Service. See, e.g., the testimony of Dr. Mark Boyce at Tr. 968-69. Even temporarily, while a conservation plan is being adopted, the BLM will not comply in full with the 50:11:40 rule. On this score FWS has stated in its April 11, 1991, opinion letter:

While the Forest Service has agreed to implement both of the major components of the ISC Conservation Strategy, (i.e., establishment and protection of habitat conservation areas and management of areas outside HCAs by the 50:11-40 rule (Thomas et al. 1990a)), the Bureau of Land Management (Bureau) has not made a similar commitment. Specifically, the Bureau has not agreed to fully manage the forest matrix to comply with the 50:11-40 rule. The Bureau's failure to fully implement the strategy may have significant consequences for the spotted owl because of the strategic location of Bureau lands between provinces and within areas of concern, and because much of their land lies within checkerboard ownership. The expected success of the ISC Conservation Strategy was based on full implementation of the recommendations on all Federal lands, beginning with the FY 1991 timber sale program.

Exh. A-7 at 14.

There is nothing in the record to refute these concerns over the BLM's position. The testimony of Joseph Lint, a BLM wildlife

03/23/91 13:31 FAX 206 883 2266

US DIST COURT

0037.4

1 biologist, relied upon by the Forest Service and WCLA, does not
2 contain any opinion on the subject.

3 (b) The ISC proposal has not been put to the test of
4 public comment and hearings.

5 (c) The ISC strategy may or may not prove to be
6 adequate. While it is endorsed by well-qualified scientists, it
7 ~~criticized by others, equally well-qualified, as over-optimistic~~
8 and risky. The Fish and Wildlife Service has stated that it "may
9 not represent a permanent, long-term solution for conservation or
10 recovery of the spotted owl, nor assure compliance with the [ESA]
11 and National Forest Management Act." Exh. A-7 at 15.

12 (d) The ISC Report calls for diligent monitoring to
13 sample the results once the program begins:

14 A comprehensive monitoring scheme that covers all land
15 ownerships should be developed. . . . [W]e believe that
16 developing and instituting a fully coordinated program of
17 management, monitoring, research, and development, which
operates across all of the landscape that makes up owl
habitat, is both essential and overdue.

18 Exh. 1 at 41.

19 No monitoring scheme exists, although members of the ISC
20 expected one to be in place by now.

21 32. To log tens of thousands of additional acres of spotted
22 owl habitat before a plan is adopted would foreclose options that
23 might later prove to have been necessary. The FWS has stated:

24 We share the ISC's concern that few options remain
25 open for managing spotted owl habitat and that available
26 management alternatives are steadily declining throughout
the range (Thomas et al. 1990a). Adoption of the conser-
vation strategy on an interim basis further reduces
alternative conservation options by concentrating timber
harvest in spotted owl habitat outside the NCAs, frag-

menting remaining contiguous blocks of habitat which lay outside HCAs, and impacting the productivity of spotted owl pairs in the forest matrix by further reducing the amount of suitable habitat within their home ranges. Until a permanent recovery plan is developed and implemented, future management options should be preserved by providing protection for spotted owl pairs and resident singles both in and out of HCAs, and by reserving the remaining contiguous blocks of spotted owl habitat.

Exh. A-7, p. 14.

33. Mr. Leonard of the Forest Service has testified that the agency will consider the alternative of preserving the remaining spotted owl habitat in the national forests. Tr. at 385-86. That alternative would be lost if extensive logging of habitat were to go forward now.

34. A review of proposed sales by the FWS would not be a substitute for compliance with NFMA. The Forest Service is required by law to manage the lands entrusted to it so as to maintain viable populations of native vertebrate species, regardless of whether they are listed by another agency. See Order on Motions for Summary Judgment and for Dismissal at 15-20 (Mar. 7, 1991) (Dkt. # 824). An FWS designation of "critical habitat" does not imply that logging will be excluded; the designation "does not prescribe any particular management regime in the areas so designated," and permitted activities may "include timber harvests." See 56 Fed. Reg. 20816, 20817-18, 20820 (1991). FWS still has no spotted owl recovery plan. Its recommendation of "prudent measures" to the Forest Service may simplify the work but does not relieve the latter agency of its stewardship of the national forests.

08-23-91 10:33 FAX 206 883 2396

US DIST COURT

6029

35. The logging of 66,000 acres of owl habitat, in the absence of a conservation plan, would itself constitute a form of irreparable harm. Old growth forests are lost for generations. amount of money can replace the environmental loss.

36. While the agency's proposal would involve logging an estimated one percent of the remaining habitat, the experts agree that cumulative loss of habitat is what has put the owl in danger of extinction. There is a substantial risk that logging another 66,000 acres, before a plan is adopted, would push the species past a population threshold from which it could not recover. Dr. Gor Orians, an expert in avian populations and ecology, has testified

Q. Can you summarize why you recommend that there be no further logging while the agency determines its new management plan?

A. I recommend a cessation of logging of owl habitat in the short run because I think the risk that the population crosses a very significant viability threshold is increased significantly by continued loss of its habitat. This will reduce the options to maintain viability in the future.

Q. What does "significant probability" mean here?

A. "Significant probability" means, in this context, that given the threats that exist on the owl now, by implementing the plan in a manner that continues to lose significant amounts of habitat during a transition period poses very significant risks to the spotted owl population; that is, a reasonably high probability that it would cross such a threshold line.

Tr. at 85, 141.

The Forest Service may decide that Dr. Orians is mistaken, but it has not done so yet.

03/23/91 18:34 FAX 206 533 2296

US DIST COURT

JUDGE COT

1 **E. Economic and Social Considerations**

2 37. The testimony on economic impact assumed a sixteen-month
3 injunction. The Forest Service would sell between 1.734 and 1.423
4 billion board feet of timber in fiscal year 1991 (which ends
5 September 30, 1991) from the seventeen "spotted owl" national
6 forests, if permitted to sell timber consistent with the TAC
7 Report. On the same basis it would sell in fiscal year 1992
8 between 1.9 and 1.453 billion board feet. The sale levels if owl
9 habitat were protected in the interim would be about .394 billion
10 board feet in 1991 and .415 billion in 1992. The difference
11 between protecting and not protecting habitat until the Forest
12 Service develops its plan would thus be between 1.03 and 1.34
13 billion board feet during fiscal year 1991 and between 1.04 and
14 1.59 billion board feet during fiscal year 1992.

15 38. The injunction would not prohibit the logging of existing
16 sales, but rather the sale of additional logging rights in owl
17 habitat areas while the Forest Service was in the process of
18 adopting a plan. Thus, timber sale reductions do not translate
19 directly into harvest reductions.

20 39. The estimate used by all parties is that as of Febru-
21 ary 28, 1991, there were 4.778 billion board feet of uncut timber
22 under contract in the "spotted owl" forests. That figure includes
23 four 1990 sales, aggregating 14.1 million board feet, which are
24 subject to a revived legal challenge as the result of a recent
25 court of appeals decision holding that section 318's fifteen-day
26 statute of limitations was equitably tolled. Seattle Audubon Soc'y

1 V. Robertson, No. 90-35774 (9th Cir. 1991). SAS and the other
 2 environmental organizations represented by its counsel have waived
 3 in open court any challenge to the remaining 1990 sales (except for
 4 two which are not yet awarded). Tr. at 24. Subtracting the 14.1
 5 million leaves about 4.764 billion board feet under contract and
 6 free of legal challenge. When added to the amount of timber the
 7 Forest Service would sell while protecting owl habitat, that supply
 8 of timber would last about nineteen months if logging proceeded at
 9 the rate experienced during fiscal year 1990. The most credible
 10 current forecasts suggest that demand for wood products during 1991
 11 and 1992 will be at or below that of 1990.

12 40. Any after-effects of an injunction would be reduced by
 13 the fact that its period would be six months shorter than that
 14 requested by the agency and assumed by the economists who
 15 testified.

16 41. Additional timber supplies from private lands can reasonably
 17 be expected to enter the market if the price of timber
 18 stumpage increases, as it probably will do if Forest Service sales
 19 decline. In addition, some timber now exported will probably be
 20 diverted to the domestic market.

21 42. To the extent that Pacific Northwest mills have had
 22 supply shortages, the problem has been exacerbated by the export of
 23 raw logs. About thirty percent of the timber harvested in Washing-
 24 ton and eleven percent of that harvested in Oregon is exported.
 25 Exports from private lands in Washington, Oregon, and Northern
 26 California during 1989 totalled 3.637 billion board feet. The

10/22/91 10:00 FAX 206 553 2200

10 0167 0017

10011-000

1 exported logs produces no mill jobs or added value in the United
 2 States. A ban on exports would not automatically shift every raw
 3 log to domestic buyers, but would provide a major source of addi-
 4 tional supply. It is true, as the Forest Service and WCLA point
 5 out, that transportation costs from Western Washington to Southern
 6 Oregon exceed those for logs produced in the immediate vicinity.
 7 They are nevertheless lower than the costs of transportation to
 8 Japan, China, or Korea. An export ban would also have the effect
 9 of moderating log prices generally.

10 43. While some mills may experience log shortages during the
 11 period of an injunction, that would occur to some degree regardless
 12 of whether owl habitat is protected, and there is no way of assur-
 13 ing that the mills most in need of logs would get them if the
 14 Forest Service proposal were adopted. National forest timber sales
 15 must be awarded on competitive bids. 36 C.F.R. 223.100.

16 44. Over the past decade many timber jobs have been lost and
 17 mills closed in the Pacific Northwest. The main reasons have been
 18 modernization of physical plants, changes in product demand, and
 19 competition from elsewhere. Supply shortages have also played a
 20 part. Those least able to adapt and modernize, and those who have
 21 not gained alternative supplies, have been hardest hit by the
 22 changes. By and large, the companies with major capital resources
 23 and private timber supplies have done well; many of the smaller
 24 firms have had trouble.

25 45. Job losses in the wood products industry will continue
 26 regardless of whether the northern spotted owl is protected. A

1 credible estimate is that over the next twenty years more than
2 30,000 jobs will be lost to worker-productivity increases alone.

3 46. A social cost is paid whenever an economic transformation
4 of this nature takes place, all the more so when a largely rural
5 industry loses sizeable numbers of jobs. Today, however, in
6 contrast to earlier recession periods, states offer programs for
7 dislocated workers that ease and facilitate the necessary adjust-
8 ments.

9 47. Counties in timber-dependant communities derive revenues
10 from the harvest of national forest timber. Federal law presently
11 guarantees counties at least 90% of the average of receipts
12 obtained between 1988 and 1990, unless timber harvests during
13 fiscal 1991 fall by 78%, which no evidence suggests would occur.
14 Revenues from this source will decline later if harvests decline.
15 These public entities, however, do not expect to obtain revenues
16 from sales made in violation of law.

17 48. The timber industry no longer drives the Pacific North-
18 west's economy. In Oregon, for example, the level of employment in
19 lumber and wood products declined by seventeen percent between 1977
20 and 1989. In the same period, Oregon's total employment increased
21 by twenty-three percent.

22 49. The wood products industry now employs about four percent
23 of all workers in Western Oregon, two percent in Western Washing-
24 ton, and six percent in Northern California. Even if some jobs in
25 wood products were affected by protecting owl habitat in the short
26 term, any effect on the regional economy probably would be small.

50. The remaining wilderness contributes to the desirability of this region as a site for new industries and their employees. The resulting economic gains, while hard to measure, are genuine and substantial. The FWS has recently noted that preservation of old growth brings economic benefits and amenities "of extremely high value." 56 Fed. Reg. 20816, 20822 (May 6, 1991). Exh. A-63.

VI.

THE PUBLIC INTEREST AND THE BALANCE OF EQUITIES

The court must weigh and consider the public interest in deciding whether to issue an injunction in an environmental case. See, e.g., Sierra Club v. Panfold, 857 F.2d 1307, 1318 (9th Cir. 1988); Northern Alaska Environmental Center v. Hodel, 803 F.2d 400, 471 (9th Cir. 1986). It must also consider the balance of equities among the parties. Village of Gambell, 480 U.S. at 545.

The problem here has not been any shortcoming in the laws, but simply a refusal of administrative agencies to comply with them. See Findings 12 through 15, above. This invokes a public interest of the highest order: the interest in having government officials act in accordance with law. See Olmstead v. United States, 277 U.S. 438, 485 (1928) (Brandeis, J., dissenting).

The public also "has a manifest interest in the preservation of old growth trees." Pilchuck Audubon Soc'y v. MacWilliams, 19 ELR 20526, 20529 (W.U. Wash. 1988).

This is not the usual situation in which the court reviews an administrative decision and, in doing so, gives deference to agency expertise. See Northwest Coalition for Alternatives to Pesticides

08/28/91 10:20 FAX 804 543 2200

US DIST COURT

08/28/91

1 Y. Lynn, 344 F.2d 888, 590-91 (9th Cir. 1988). The Forest Service
 2 here has not taken the necessary steps to make a decision in the
 3 first place -- yet it seeks to take action with major environ-
 4 mental impact.

5 The loss of an additional 66,000 acres of spotted owl habitat,
 6 without a conservation plan being in place, and with no agency
 7 having committed itself to the ISC strategy, would constitute
 8 irreparable harm, and would risk pushing the species beyond a
 9 threshold from which it could not recover.

10 Any reduction in federal timber sales will have adverse
 11 effects on some timber industry firms and their employees, and a
 12 suspension of owl habitat sales in the national forests is no
 13 exception. But while the loss of old growth is permanent, the
 14 economic effects of an injunction are temporary and can be
 15 minimized in many ways. See Findings 37 through 50, above.

16 To bypass the environmental laws, either briefly or
 17 permanently, would not fend off the changes transforming the timb-
 18 industry. The argument that the mightiest economy on earth cannot
 19 afford to preserve old growth forests for a short time, while it
 20 reaches an overdue decision on how to manage them, is not convinc-
 21 ing today. It would be even less so a year or a century from now.

22 For the reasons stated, the public interest and the balance of
 23 equities require the issuance of an injunction directing the Forest
 24 Service to comply with the requirements of NFMA by March 5, 1992,
 25 and preventing it from selling additional logging rights in spotted
 26 owl habitat until it complies with the law.

VII.

INSTRUCTION

On the basis of the foregoing findings and conclusions, it is ordered and adjudged that:

A. The Forest Service is enjoined to proceed diligently in compliance with NFMA, as required by the order entered on April 1, 1991 (Dkt. # 867), and to submit to the court and have in effect by March 5, 1992, revised standards and guidelines to ensure the northern spotted owl's viability, together with an environmental impact statement, as required by NFMA and its implementing regulations. The agency is directed to submit to the court by June 15, 1991, a timetable for completion of the steps to meet this schedule.

B. The Forest Service is further enjoined from auctioning or awarding any additional timber sales from Forest Service Regions Five and Six that would leg suitable habitat for the northern spotted owl, as defined above, until the said standards and guidelines are adopted and in effect.

The clerk is directed to send copies of this order to all counsel of record.

Dated: May 23, 1991.


 William L. Dwyer
 United States District Judge

Mr. JONTZ. Dr. Beuter, what really astounds me is this notion you have that you can pick and choose among the laws, that because these are only procedural requirements, and in your mind doesn't relate to substance, that you can set aside what the law requires you to do under NFMA. I'm not saying that you made that decision, but you came here today and to tell this committee that even though it may be desirable to simultaneously comply with all the acts—desirable? It's the law. It isn't whether you desire to comply with all of the laws or not, that is your obligation to take care that the laws be faithfully executed.

If you don't like the laws, come to this committee and tell us to change them. Maybe you have done that. Maybe you are making recommendations, or have in the past, to do that.

But to me, enforcement of the law has nothing to do with what you desire to do. It is a requirement. If it is a procedural requirement, that does not make it any less the law than if it is a substantive requirement.

It doesn't surprise me that the judge issues an injunction when, in his words, he finds systematic and deliberate violation of the law. We can get into a long debate about why this occurred, whether it was political, or whether it was something else, but it just astounds me that there is this conception that some laws are to be followed and some laws are not to be followed, depending on whether it's desirable or not.

Mr. BEUTER. Mr. Jontz, I hope you are not misunderstanding me. I am not faulting the judge's decision. I think he made—as far as my little knowledge of the law, it seems like a logical legal opinion from that standpoint. The thing I'm concerned about as a forester and as someone who cares about the environment in this Nation is that we are protecting the owl. That is an important thing to keep in mind. It is unfortunate that the law was broken. We would never set out to do that, I assure you.

Mr. JONTZ. But, sir, in your position, it is good that you are a forester, but you are more than a forester. You are an administrator. Your agency has a responsibility to follow the law. I appreciate the fact that—

Mr. BEUTER. We will.

Mr. JONTZ. It takes continual action in the courts to get you to follow the law. That's what the record shows very clearly.

I appreciate the fact that the course you took had logic to it, but the fact that there was logic behind it does not in any way excuse you of your legal responsibilities. It's unfair to have you sitting here because I don't think you had anything to do with these decisions that were made, but you are the representative—and Mr. Jamison and Mr. Turner—of the administration.

I just don't know why we're surprised that the situation is embroiled in the courts when we have this sort of approach to it that is evidenced still today in your testimony that you think it is overly burdensome to comply simultaneously with all of the laws, as if there was some other way to comply with them, other than simultaneously.

Mr. BEUTER. There is one important point that is in there—and you asked me about this earlier—it's an issue of a procedure versus substance. To some extent, there are situations in life where you

have a lot of rules and things like that that you follow that a lot of times may not be necessary. You are saying that this is the place where the laws are made, and this is the place where they're fixed. I think there is an opportunity to look at the impracticality, and maybe the impossibility of some of these procedural requirements and fix them.

Mr. JONTZ. Well, if you have specific recommendations about procedural requirements that you wish to change, please come forward and propose them as legislation. The fact, again, that a law is procedural makes it no less important than any other law. The procedures under the National Environmental Policy Act, the procedures under the National Forest Management Act, were put in place for a certain reason. Right or wrong, the wisdom of the Congress resulted in those laws.

If you disagree with them, please come forward and tell us how you would change them. Don't decide that because they are procedural they are some secondary category of laws that if you do not desire to follow will not have consequences. It has had very serious consequences, consequences for the environment, consequences for the people living in the Pacific Northwest, consequences for this country.

I don't know what all the reasons are that the administration has decided not to follow the law over the last 10 years, but it has been repetitive, and it has made the situation much worse than it needs to be. The fact that these are procedural requirements, obviously given the impact of all this, makes them no less important than if they were some other requirements in the law.

Mr. BEUTER. I agree with you that the procedural requirements are not a matter of less importance. It is a combination of procedures and the overlay of laws that are the problem.

Mr. JONTZ. If you have specific recommendations about which law should be changed, then come forward. Otherwise, the procedural requirements have to be followed because they are the law—all of them, and not just one or two—simultaneously. That is the law.

Mr. JAMISON. Mr. Chairman, I would like to make a real quick comment.

Mr. VOLKMER. Certainly.

Mr. JAMISON. We follow the law in the BLM to the tee. In fact, we withstood a court challenge to us in the Frye case. They concurred with what we were doing. We were conferencing every sale with the Fish and Wildlife Service. In fact, 714 million board feet out of 750 million went through the Fish and Wildlife Service. We are following it right down to the letter. We were running everything through NEPA. We were running it through our planning system. But the point is that we are at the end where they don't mesh. The laws conflict in procedure, so we need some help in that.

Mr. JONTZ. Well, you come forward with specific recommendations that you have to change these laws, and then the committees with jurisdiction can consider them. Until then, it is your responsibility to follow all of them simultaneously.

Mr. JAMISON. We do.

Mr. VOLKMER. I would like to comment.

John, you have made a valid point. I don't know that it's incumbent necessarily on the administration at this time to come forward with legislation, but I do think that there probably has to be a harmonizing of the legislation. The National Forest Management Act was enacted basically through the Agriculture Committee at a time and place when it seemed necessary.

The Endangered Species Act came out of the Interior Committee at a different time, approaching a different subject, and I'm sure at the time it was not—I'm sure that if I go back through the Congressional Record, I'm not going to find any discussion in there of what impact this will have on the National Forest Management Act.

The same thing I think applies to NEPA. Those were all done as separate pieces of legislation. When these were done as separate pieces of legislation, I doubt that you will find much discussion in there about the National Forest Management Act and what implications that has, nor even the Endangered Species Act and what implications that has.

So we have these various acts out here, developed by a different Congress at a different time for a different purpose, and now all of a sudden, rightfully, the gentleman from Indiana and everybody else is saying, "Here they are. Now you harmonize them."

There may be areas where it is difficult, if not impossible, to harmonize them. Is that what you're telling me, Cy?

Mr. JAMISON. That is correct, sir.

Mr. VOLKMER. If you follow just the strict letter of the law, there may be impossibilities.

John, you tried to point out that while you're developing your plan that you're going to give the judge, at the same time they're coming up with a recovery plan. What if that recovery plan is quite a bit different from what you're proposing? What's the judge going to tell you? The judge will probably tell you that you did it wrong and you have to go back and do it the way they said you should do the recovery because you have to maintain viability and you have to have recovery to do viability.

You get caught in between. I admit that. All I can say is that you can try to do some of the best you can, but I think it's really incumbent on the Congress at this time to look at these acts, because of what we're seeing happen now, to try to harmonize them, at least, to where agencies can fulfill the requirements of those without doing disservice to one in order to do another.

Mr. MORRISON. Mr. Chairman, would you yield just briefly?

Mr. VOLKMER. Yes.

Mr. MORRISON. I noted with some interest that the thesis of the Dwyer case is built not on the law but on the regulation requiring the viability of the species throughout its range, which was worked through the Forest Service rule writing process. At that time, the Endangered Species Act was in existence. Is that correct? It was 1973 and 1975.

So the agencies themselves did part of this, and maybe we could perform a service not just by looking at the conflicts in the law, but in the regulations as written by the agencies as well.

Thank you, Mr. Chairman.

Mr. VOLKMER. Does the gentleman from California have any questions?

With that, I want to thank you very much for the time you have spent with us through the lunch hour and on past.

Mr. JAMISON. Mr. Chairman, I would like to say that we would like to work with you in any way that we can on this, at the staff level, or whatever you want to try. But we agree that the time is now, so let's get moving.

Mr. VOLKMER. We have two things we have to do now. We have the controversy in the Pacific Northwest to try to resolve that, and then we have some harmonizing to do with the laws.

Mr. BEUTER. Thank you.

Mr. JAMISON. Thank you very much.

Mr. VOLKMER. Our next panel—and I appreciate your patience in waiting to get to the table—Mr. James Perry, Assistant General Counsel for Natural Resources, U.S. Department of Agriculture; Mr. Victor Sher, attorney, Sierra Club Legal Defense Fund from Seattle; Mr. Mark Rutzick, Preston, Thorgrimson, Shidler, Gates & Ellis from Portland, Oregon; Mr. Charles P. Raynor, Assistant Solicitor, Fish and Wildlife Service, Washington, DC; and Mr. Roger W. Nesbit, Attorney Adviser, Office of the Solicitor, Pacific Northwest Regional Office, U.S. Department of the Interior, Washington, DC.

I want to thank you for your patience. You may either review your statement in full, or you may summarize, however you so desire, but your written statement will be made a part of the record.

We will begin the testimony with Mr. Perry, and others will follow in the order in which they were called to the witness table.

We will begin with Mr. Perry.

Mr. PERRY. Mr. Chairman, I don't have a written statement.

Mr. VOLKMER. That's fine. You're here to answer questions.

Does anybody have a written statement?

Mr. Sher.

STATEMENT OF VICTOR SHER, ATTORNEY, SIERRA CLUB LEGAL DEFENSE FUND

Mr. SHER. Thank you, Mr. Chairman and members of the subcommittee. My name is Vic Sher and I am an attorney with the Sierra Club Legal Defense Fund. The Legal Defense Fund is a charitable public interest law firm, not part of the Sierra Club, that represents citizen groups in litigation to protect our Nation's natural resources and to enforce environmental laws.

I will not go through my written statement in full, Mr. Chairman, but I do want to hit three points. First, I want to summarize the current status of the litigation brought by our office concerning the spotted owl in the Pacific Northwest. On that I have to say that many of my best lines have already been taken during the earlier proceedings today.

Second, I want to discuss briefly why the legislation introduced by Mr. Huckaby and others is the wrong approach to the problems facing our public forests. And third, I want to suggest an appropriate legal framework for ancient forest protection legislation.

Over the past 4 years, we have sought to correct in court the worst of a long history of illegal agency action concerning the spotted owl. As Judge Dwyer put it last week, we have uncovered, in the course of several different lawsuits in front of several different judges in the Pacific Northwest, a remarkable series of violations of the environmental laws.

I would like to make four major points about the litigation. There was talk several years ago about the relief that we had obtained in court being preliminary rather than permanent. Now that we have obtained permanent relief, we hear about procedural as opposed to substantive. The truth is that we have pushed consistently to have an early day in court so that the merits of Federal agency management decisions can be examined by the courts and by the public where the facts, the testimony, and all the records are put out in the open.

Wherever we have been allowed that opportunity to prove our case and have the courts examine the Government's and timber industry cases on their merits, we have revealed fundamental flaws in the administration of our public lands. We have demonstrated these kind of flaws in our suit under the Endangered Species Act against the Fish and Wildlife Service, which ignored all the expert opinion regarding the owl's precarious plight, and denied the species the protections of the Endangered Species Act in 1987.

We showed the same kinds of flaws with the Fish and Wildlife Service more recently when the agency sought to put off designating critical habitat without justification, an action that should have been taken concurrently with designation in June 1990.

We have shown fundamental flaws contrary to some of the remarks that you have heard earlier today, in our litigation against the Bureau of Land Management concerning the owl. In 1989, Judge Frye in Portland held that BLM had arbitrarily and capriciously ignored new significant and probably accurate information about the effects of continued logging on the owl as a species. But the courts held that an appropriations rider, section 314, to the Interior bill barred the Federal courts from correcting this illegal agency conduct.

Most recently, in the opinion which has received a great deal of comment today, our litigation against the Forest Service led to last week's injunction against further timber sales in spotted owl habitat until the Forest Service complied with the National Forest Management Act's requirements that a plan be adopted that will ensure the owl's viability.

Let me focus on Judge Dwyer's opinion for a moment, Mr. Chairman. There are at least four significant aspects of the court's ruling that I wanted to highlight. The first is biological. Judge Dwyer concluded, and all the experts agree, that the spotted owl is in serious trouble. The experts also agree that the interagency scientific committee was the first scientifically responsible approach to the problem and that it was long overdue, but it may not prove adequate.

It hasn't been subject to public or scientific criticism or debate. There is no long-term commitment to it by any Federal agency. In fact, the BLM hasn't even adopted it on an interim basis. It may not in fact prove adequate. It has been criticized, as Judge Dwyer

pointed out, by highly qualified experts both in and out of the Government as overly optimistic and risky.

Second, with respect to economics in the timber industry, another subject of a great deal of discussion this morning, the timber industry in the Pacific Northwest is undergoing fundamental changes. It is losing workers to increased deficiency. It will play, and has been playing in recent years, a much smaller role in the regional economy than it has in the past, and the industry is generally switching over from an old-growth dependent base to a second growth dependent base using lower diameter logs.

These changes will continue regardless of whether owl habitat in the national forest is protected, and those changes dwarf the effects associated with owl protection.

In the long term, the experts from the Forest Service agreed with our experts in the hearing that any effects on the timber industry associated with protecting the remaining spotted owl habitat could be more than offset by limiting log exports and keeping jobs at home. Also, the experts are saying that the economy of the Pacific Northwest may depend on keeping the trees standing. That is, that the forests have immense economic value as forests, not just as timber for the industry.

As Dr. Ed Whitelaw said in the hearing, the issue is not jobs versus owls for the Pacific Northwest, the issue is jobs versus jobs.

Now in the short term, the question before the court had to do with what would be the impact of a temporary limitation on new timber sales in spotted owl habitat areas while the Forest Service comes into compliance with the law. It was interesting that Dr. Beuter told you that he was unfamiliar with the testimony of his own expert witness, Dr. Richard Hanes, because Dr. Hanes testified that the injunction at the time anticipated to be, or assumed to be, over 2-year period, would affect about 1 percent to 2 percent of the cut level regionwide through the end of fiscal year 1992.

Dr. Hanes, as well as our experts, pointed to the volume under contract, diversions from exports primarily to China and Korea, and other private sources, even if demand rises to inspire a response from private land.

Judge Dwyer put it best when he concluded that bypassing environmental laws, either briefly or permanently, would not fend off the changes transforming the timber industry. The argument that the mightiest economy on Earth cannot afford to preserve old-growth forests for a short time while it reaches an overdue decision on how to manage them is not convincing today, and it would be even less so a year or a century from now.

The third significant point about Judge Dwyer's opinion is that there have been deliberate and systematic violations of Federal environmental laws reflecting decisions made by high authorities in the executive branch of the Government. Mr. Chairman, you have already heard a great deal of testimony on those issues today.

The bottom line on that, though, is that the problem has not been any shortcoming in the laws, but simply a refusal of the administration's agencies to comply with them. The procedures and protections of the Endangered Species Act, the National Forest Management Act, the National Environmental Policy Act, and the other laws that guide Federal agency management of the public

lands are good laws. They make sense, they were enacted for a reason, and they have just been flouted.

The fourth point about Judge Dwyer's decision is that the injunction that he issued will only last until the Forest Service comes up with a responsible owl management plan, which you heard today that the Forest Service says it will do by February, to be effective in March 1992. That time line is 17 months beyond the deadline Congress set of September 30, 1990 in section 318 nearly 2 years ago in 1989.

Turning briefly to Mr. Huckaby's bill, H.R. 2463, we only got a copy of this bill last night. My written testimony provides our initial comments, but even a cursory review of this bill shows that it intends to make logging the dominant use of our public forests and seeks to insulate Federal agency action from judicial review. The bill, in fact, Mr. Chairman, explicitly seeks to encourage the very problems that have brought us to the brink of an ecological disaster in the Pacific Northwest, and frankly have kept me very busy in the courts for the last 4 years.

The bill is an unwarranted and misdirected assault against our public forests, our environmental laws, and our courts, and it is the wrong approach. It was as if you would order the Department of Defense to start a new arms race to keep military bases open. You shouldn't do that, and you shouldn't order our land managers to ignore science, to ignore facts, and to ignore our laws just to get the cut out.

Some brief thoughts, Mr. Chairman, on the proper framework for addressing ancient forest protection legislation, I think there are three themes that have to be crucial. First, Congress needs to preserve the integrity of our existing environmental laws. Those are good laws, they are important, and they reflect the American public's will to preserve our public lands. Second, we need to preserve the integrity of our system of review of Government action by an independent judiciary. And third, we need to preserve the Government's obligation to manage our public lands as a trustee for other species that inhabit them, as well as for multiple uses.

Thank you, Mr. Chairman, for the chance to be here this morning. Of course, I will be happy to answer any questions.

[The prepared statement of Mr. Sher appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you.

Mr. Rutzick.

STATEMENT OF MARK C. RUTZICK, ATTORNEY, PRESTON, THORGRIMSON, SHIDLER, GATES & ELLIS, ON BEHALF OF THE NORTHWEST FOREST RESOURCE COUNCIL

Mr. RUTZICK. Thank you, Mr. Chairman.

I am Mark Rutzick, a partner in the law firm of Preston, Thorgrimson, Shidler, Gates, and Ellis in Portland, Oregon. I am appearing today on behalf of the Northwest Forest Resource Council, which is a coalition of 13 timber industry associations in Washington and Oregon that collectively represent every part of the timber industry, from independent loggers and small sawmills to large publicly-held companies and major industrial timberland owners.

The Northwest Forest Resource Council has acted as the timber industry's representative in the spotted owl and old-growth controversy since 1986 and has participated in each of the major spotted owl lawsuits. I have acted as the NFRC's lead attorney in each of these cases, including the hearing that resulted in Judge Dwyer's decision last week, as a result of which I am now probably unemployed.

I would like to comment briefly on a subject that the chairman raised on the question of the utility of volume under contract, and bring to the committee's attention testimony that was offered at the hearing with Judge Dwyer to the effect that in Washington, Oregon, and northern California today there are some 44 manufacturers—meaning sawmills or plywood plants—that have less than 6 months of volume under contract from all public agencies that sell timber, meaning the Forest Service, BLM, the State of Washington, and the State of Oregon. And there are 60 manufacturers that have less than 12 months of timber under contract.

It is very misleading to take the regional total of timber under contract and divide it equally among all the manufacturers. Some have more than the average and many have less than the average. The companies with less than 12 months of timber under contract will not be able to continue to operate if no new timber comes into the system within the next 12 months.

Without going into great detail on the spotted owl litigation, it is fair to say that we have reached a crisis point in the litigation. Despite the congressionally endorsed effort that led to the development of the interagency scientific committee conservation strategy, and despite the fact that every spotted owl expert who testified at the hearing in front of Judge Dwyer expressed the view the ISC conservation strategy is an effective strategy to protect spotted owls in the short term and in the long term, the courts have now blocked the Forest Service from implementing the ISC strategy, and have blocked new timber sales for as long as it takes the Forest Service to develop yet another new spotted owl plan.

While the BLM is at this moment free from a court injunction, I share Director Jamison's fear that we may see new threats to the BLM sale program through court injunctions that may come later this year.

There is no end in sight for the spotted owl litigation. I certainly can say that because I am one of those lawyers about whom it is so often said that the spotted owl is an employment act. Frankly, I wish that weren't true. I would be happy to do something else. But the fact is that it appears that the litigation is going to continue for a long time to come. I think it's a virtual certainty that when the Forest Service adopts its new plan next year, we will see a challenge to that plan.

In fact, the seeds of that challenge have already been planted in the testimony provided to Judge Dwyer. The biologists that testified on behalf of the Seattle Audubon Society identified certain research areas that they felt were essential to be completed before a credible spotted owl plan could be adopted, yet none of that research can be completed within the timeframe that Judge Dwyer has given the Forest Service to prepare a new plan.

That guarantees, in my opinion, that when the Forest Service returns to Judge Dwyer with its new plan, the same scientists will come back and say, "You still haven't done what we told you that you should have done, and there are still risks to the owl, and we have to preserve options, and there is uncertainty." Judge Dwyer will again be asked to issue another injunction, which given the history of the dispute, is not at all unlikely to occur.

The spotted owl remains an acknowledged surrogate for the old-growth dispute. Everybody knows that is true. Until the old-growth issue is resolved definitively through legislation, or unless the agencies give up on trying to provide commodities from public lands in the Pacific Northwest, we will continue to see the spotted owl litigation for years to come.

There will never be certainty in timber supply while the courts retain the power to shut down an agency's timber sale program with a single injunction. And while there remains no certainty for timber supply, there will never be certainty for the timber industry. A millowner facing a multimillion dollar investment decision will never be able to make the right decision if he doesn't know if he is going to have any timber to buy a year from today.

I know of no solution to this problem other than congressional intervention. Congress has to change the laws to provide the certainty that can allow millowners to make the decisions that they have to make that will give workers in timber-dependent communities a future, and that will settle the dispute.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Rutzick appears at the conclusion of the hearing.]

Mr. VOLKMER. Mr. Raynor and Mr. Nesbit, you all don't have statements either? You're just here to answer questions, right?

Mr. NESBIT. I don't have a written statement. I am Roger Nesbit from the Portland Regional Solicitor's Office. I also appeared as a special assistant U.S. attorney in the litigation against the Bureau of Land Management concerning the spotted owl.

I just found out about the nature of the hearing about 8:30 this morning, so I haven't had a chance to prepare written remarks, but I do have remarks, if I could proceed with that.

Mr. VOLKMER. Certainly.

STATEMENT OF ROGER W. NESBIT, ATTORNEY ADVISER, OFFICE OF THE SOLICITOR, PACIFIC NORTHWEST REGIONAL OFFICE, U.S. DEPARTMENT OF THE INTERIOR

Mr. NESBIT. First, I would like to assure Mr. Rutzick that I am quite positive that Mr. Sher will do all he can to keep him employed for the time being.

It is also not true that wherever the environmental groups have brought a case to the point of ruling on the merits that they have shown that the Bureau has been wrong in its decisions. The *Headwaters v. Bureau of Land Management* case, which concerned the Wilcox Peak timber sale in southern Oregon, actually reached the merits on the credibility of the spotted owl biology.

In fact, the testimony that had been presented before Judge Frye in the *Portland Audubon Society* case, to which they did not reach

the merits in that case, was presented in the *Headwaters* case by the environmental group bringing that case. Judge Burns ruled that the testimony of the Government and the intervenor's witnesses was more credible than that provided by the environmental groups, and on some of the very same issues that Judge Dwyer had ruled against the Forest Service. That *Headquarters* decision was appealed by the environmental groups in the ninth circuit last year, and the ninth circuit affirmed Judge Burns' decision.

Section 314, the basis on which the *Portland Audubon Society* case dismissed the National Environmental Policy Act claim of the environmentalists, actually was an endorsement, or could be characterized as following the same reasoning that the Bureau had used in deciding that they were not going to do a supplemental EIS; that is, the Bureau was already engaged in replacing the old plans, and it did not make any sense to duplicate the efforts and do a supplemental EIS on old plans that had so little time left.

That was the very basis of the decision that the Bureau made in not performing the supplemental EIS's. So if Judge Frye's holding was that the Bureau was arbitrary and capricious, the same would apply to the Congress. She had to follow the law, and the law said that we did not have to perform a supplemental EIS.

The other claims in the *Portland Audubon Society* case were disposed of by Judge Frye in the recent decision. She certified for an appeal only one of those claims. I want to bring that to your attention. I think that is important, provided that the environmentalists bring the Migratory Bird Treaty Act ruling to the ninth circuit, if Judge Frye is reversed on appeal—if that occurs—it would have implications far beyond just the spotted owl. Migratory Bird Treaty Act issues are being brought around the country in other regions with other birds.

Practically every bird species on the North American Continent is a migratory bird. If you cannot alter the habitat of any migratory bird without committing a crime, that would have vast implications.

Another thing I would like to note for you is that the injunction that was in the *Portland Audubon Society* case, which was rejected by Judge Frye, went far beyond old growth. We're no longer speaking about old growth. The spotted owl biologists, as we now understand, are considering anything over 80 years old to be spotted owl habitat, and also consider for dispersal habitat, trees that are as young as 40 years old.

So the injunction that was requested by the environmental groups went far beyond what they originally asked for in their complaint when they began their case, which they characterized would be not the entire plans. There is only about one-third of BLM's timber sales in old growth, therefore the plans of the agency could continue to a great degree under the relief originally sought. When it came down to the injunction they finally requested, it would have stopped 95 percent of the Bureau of Land Management's timber program.

Pertinent to your legislation on sufficiency language, you should be aware of the ruling the ninth circuit made on sufficiency language in section 318 and found it to be unconstitutional and a violation of separation of powers.

The Government has recently petitioned for certiorari of the Supreme Court challenging the ninth circuit's ruling on that. Until we get a cert petition granted and a reversal, the law is, as the ninth circuit said in their ruling, that the sufficiency language of section 318 is unconstitutional. That needs to be taken into consideration if you're going to try to make any sufficiency language to affect these pending lawsuits. That can make it very difficult.

There are other pending litigation that have recently been filed, which would have vast effects as well. The *Portland Audubon Society* case did not involve the Endangered Species Act. We now have filed in April two new lawsuits challenging the Bureau of Land Management's Timber Sale Program under the Endangered Species Act. One of them, the *Oregon Natural Resources Council v. BLM*, challenges existing contracts. Our answer to that complaint is due next week, so we are early in that litigation.

The second case is the *Lane County Audubon Society v. Jamison* case, which challenges all new contracts for the next 2 fiscal years.

Furthermore, there has been a notice to sue letter that has been sent within the last week or two that is threatening to sue the Bureau of Land Management and the Forest Service concerning critical habitat designations, which would go to all existing contracts and future contracts. So there are multiple litigation going on here. Any legislation that would just focus on the spotted owl as the issue would fall short of the challenges that are being made to every sale that the Bureau of Land Management is now putting up. Salvage sales that are considered not to be affecting spotted owls are being challenged by environmental groups under multiple numbers of statutes that have been passed by Congress.

We recently had a case involving a candidate species, the cadis fly. There are other species out there that are candidates for listing that could be the basis for further lawsuits. So one has to consider, if you're wishing to insulate the agencies from lawsuits, that you cannot focus just on what has been used in the past as a basis to challenge the agency's actions.

I will be glad to answer any questions you may have.

Mr. VOLKMER. Mr. Sher, you mentioned Judge Dwyer's ruling and the points in it. I reviewed that ruling. I don't know if you were in the room when I made my comments. I didn't comment upon the export provision. That's kind of begging the issue. You're going to ask the Congress to stop the exports of a commodity to another country. Is that what you're asking?

Mr. SHER. No, sir. The export provision is significant for two reasons. First, without any additional congressional action, up to about 1 billion board feet of logs that are currently exported to China and Korea, because of a simple price response—that is that the prices that the domestic purchasers are willing to pay for logs go up—perhaps a significant portion of those logs would be diverted to the domestic market. That's because the prices for those logs exported to China and Korea currently is quite comparable to those that are currently paid by domestic purchasers.

Mr. VOLKMER. But what you're telling me, though—I understand what you're saying.

Mr. SHER. That's the first point, Mr. Chairman. The second point—

Mr. VOLKMER. Wait a minute, though.

You're saying that China, Korea, and the rest of them aren't going to pay any more. What about that? If they want it bad enough, they're going to pay top dollar. If the price here goes up to \$120, and they're only paying \$115, are you telling me that they aren't going to pay \$122?

Mr. SHER. They may well, Mr. Chairman. To the extent that the American industry wants it as well, they should bid them up. It is not an answer to simply say that the industry cannot compete with other purchasers.

Mr. VOLKMER. What you're telling me is that it is all right for the price of timber to continue to escalate. That means that the price of—

Mr. SHER. No, Mr. Chairman, that is not what I'm saying. What I was saying is that in the context of the order that Judge Dwyer was considering, which was a temporary ban on sales of certain timber from Federal lands until the Forest Service complies with the law, that there are alternative sources of timber available to mitigate any potential impacts of that. The first source is one that was discussed some this morning with the timber already under contract and available. The second is potential log exports, as I have described. The third is the other sources from private land.

It is significant that the testimony on that point between our experts and the Forest Service experts in front of Judge Dwyer were virtually identical. Like I said, for the next 2 years, the Forest Service projected that there would be a 1 percent to 2 percent difference regionwide between harvesting with the injunction, and without the injunction.

Mr. VOLKMER. That's not what I heard here this morning.

Mr. SHER. That was the testimony, sir.

Mr. VOLKMER. Well, our testimony here this morning was quite different.

Mr. SHER. Dr. Beuter testified that he was not familiar with what his expert had said at the trial. What I am telling you is what Dr. Hanes testified to, as the Forest Service's expert, in front of Judge Dwyer a couple of weeks ago.

Mr. VOLKMER. I just heard this morning that the most they're going to be able to sell this year is 1.3 billion board feet.

Mr. SHER. That's correct. I wasn't talking about sales. I was talking about cutting over the next few years.

Mr. VOLKMER. That's for the next couple of years.

Now I understand that it's not 4.7, but the total is around 5.7.

Mr. SHER. That's the amount that is under contract.

Mr. VOLKMER. That's what is under contract right now?

Mr. SHER. That's right.

Mr. VOLKMER. And that will be cut over a period of 3 to 5 years. They cut last year 5.2 and the year before 5.2.

Mr. SHER. No, Mr. Chairman, there is a confusion here between apples and oranges. You cannot compare the volume that is under contract west side with the volume that has been cut historically regionwide. On that point it is significant. There is about 4.8 billion board feet under contract west side, that is in the owl forest, that was the testimony, and that is what Judge Dwyer found.

In the first 6 months of this fiscal year, about 1 billion board feet has been cut. There are no restrictions on that cutting right now. That timber is sold and that is available.

Mr. VOLKMER. It's sold and it's available, but it's available to those who own the contract.

Mr. SHER. Of course.

Mr. VOLKMER. As Mr. Rutzick has pointed out, if you don't own contracts, and you only have supplies for another 6 months, you're not going to get another contract.

Mr. SHER. Mr. Chairman, one of the problems is, as Judge Dwyer pointed out, is that there is no way to guarantee that any timber that comes onto the market is going to go to any particular purchaser because it is an open bidding system.

Mr. VOLKMER. I know that. But if you also have no timber available to buy, it doesn't make any difference how much money you have.

Mr. SHER. I would agree with you on that.

Mr. VOLKMER. All right.

Mr. SHER. But the point is that there is timber available to buy.

Mr. VOLKMER. Where?

Mr. SHER. The volume that the Forest Service will be able to offer, even under the injunction—and those are the figures that you have—

Mr. VOLKMER. That's 1.3.

Mr. SHER. That's right.

There is an addition to substitute volumes that both the Forest Service and we agreed would become available over the next couple of years. Those are the sources that you and I have been discussing, the log exports primarily to China and Korea.

Mr. VOLKMER. You're begging the question. I'll just have to disagree with you. I don't think those foreign buyers are not going to buy just because the market price goes up a little bit unless they can buy it somewhere else cheaper.

Mr. SHER. Mr. Chairman, I would be happy to provide to you a copy of the transcript of Dr. Hanes' testimony on this issue as well as our experts, and you can see what the experts have to say about it.

Mr. VOLKMER. Well, let's put it this way—Mr. Rutzick, I would like to listen to you a minute.

You said that you have 44 firms that have a 6 month supply. Is that correct?

Mr. RUTZICK. Six months or less.

Mr. VOLKMER. Could you give me the number of employees that we're talking about, plus management and everybody else? If you can't provide it now, could you furnish it to me in writing?

Mr. RUTZICK. On an average basis, yes. I'd be happy to.

Mr. VOLKMER. Then you have another 60 that are—

Mr. RUTZICK. A total of 60 with less than 12 months.

Mr. VOLKMER. I would like to also have the locations of those, if I may.

These are not mills, right? These are processors?

Mr. RUTZICK. These include sawmills and plywood or veneer manufacturing facilities. These are the major employment entities of the timber industry that are the major purchasers of Forest

Service timber, and 60 of those companies have less than 12 months of timber.

[The information follows:]

|

PRESTON THORGRIMSON SHIDLER GATES & ELLIS

0 MONTHS REMAINING:

Purchaser

Chiloquin Forest Products
 Fibreboard Corp.
 Gilchrist Timber
 H.R. Jones Veneer
 J & J Shake/Peninsula F.P.
 Louisiana-Pacific Cor Can
 McDougal Forest Products
 P & N Cedar Products
 Pine Ridge Forest Products
 Susanville/Thomas/Wn Swan
 Triangle Veneer/Timber
 W-S Forest Prod/Idaho-Pin
 West Pacific Resources
 Westwood Timber
 Allen Logging
 Bowman Logging
 Brandeberry Loggin, Mike
 C & R Timber
 Cedarville Timber and Logging
 Da Paul, Inc.
 Ford & Ford Logging
 Gyppo Loggin
 Hansen Enterprises, Erik
 Hansen, Ted
 Hermann Bros. Logging
 J. D. Logging
 Lloyd Logging
 Madroak Logging
 Richards Logging, T. E.
 Riddle Logging, Samuel W.
 Sheppard, Jon
 Sky Car Logging
 Smallwood/Thissell, Inc.
 Spradlin, T. J.
 Stephens Logging
 Tack Logging
 Talmo, Inc.
 Times Mirror/Pub. for Prod.
 Ulin Logging, Ken

Location

Chiloquin, Oregon
 Roseburg, Oregon
 Gilchrist, Oregon

 Yoncalla, Oregon
 Roseburg, Oregon

 Klamath Falls, Oregon
 Eugene, Oregon
 Cashmere, Washington

0 - 6 MONTHS REMAINING:

Purchaser

Banks Lumber
 Cascade Timber
 Hull-Oakes Lumber
 International Paper

Location

Banks, Oregon

 Monroe, Oregon
 Gardiner, Oregon

PRESTON THORGRIMSON SHIDLER GATES & ELLIS

Linn Timber
 Linnton Plywood Assn.
 Snokey Point Lumber
 Stone Forest/Container/SWF
 Timber Products
 W & D Ind/Western Tim. ORW
 W & D Ind/Western Tim. WAW
 Wheeler Manufacturing
 White Star Timber/RND Elma
 Aylor Joel B
 Ball Wood Products
 Barron Logging, Carl
 Brewer & Son, G. L.
 Cedar Creek Forest Prod.
 Couch Logging, Robert J.
 Cummings, Robert
 Emery & Clements
 Fowler, Brad
 Gagner Logging, Ivan
 Marlow Logging, George
 Mason Timber
 Melcher Logging
 Mesa Resources
 P & G Timber
 Sauko, Dick
 Skaals, Fred
 Stout Logging, Greg D.
 Taylor, J. W.
 Transmission Agency No CA
 Winchester Timber

6 - 12 MONTHS REMAINING:

Purchaser

Avison Lumber
 Bald Knob/Walker, George
 Hoh River Timber
 Hurn Shingle Co.
 ITI Rayonier
 Lane Plywood
 Manke Lumber/Cascade
 Menasha Corp
 Miller Redwood Co.
 Multnomah Plywood
 Ostron Lumber
 Pope & Talbot/Penn WAW
 Port Gardner Timber
 Round Prairie Lumber
 Spokane Lumber
 Taylor Lumber & Treating
 Washington Forest Product

Portland, Oregon

Medford, Oregon
 Medford, Oregon
 Portland, Oregon
 Portland, Oregon
 Toledo, Oregon
 Elma, Washington

Location

Mollala, Oregon
 Cresswell, Oregon

Hoquiam, Washington
 Eugene, Oregon
 Tacoma, Washington
 Coos Bay, Oregon
 Crescent City, Calif.
 St. Helens Oregon
 Pecdee Oregon
 Port Gamble, Oregon

Round Prairie, Oregon
 Spokane, Washington
 Sheridan, Oregon

PRESTON THORGRIMSON SHIDLER GATES & ELLIS

Hambleton Bros. Lumber
 Harkness Logging, John
 L & N Logging/Bode/Carter
 Northwest Log, Inc.
 Nygaard Logging, Martin
 Points West Trading
 Sorenson Logging, Kenneth
 T & T (USA) Corp.

12 - 18 MONTHS REMAINING:

Purchaser

Blue Lake Forest Products
 Brand-S Corp.
 Canyon Lumber
 Champion International
 Columbia Plywood
 Dahlstrom Lumber
 Davidson Industries
 Gregory/NW T&R/Lake/Elk L
 Kogap Manufacturing
 Max West, Inc.
 Mountain Fir Lumber ORW
 Murphy Company
 Rogge Forest/Wood Prd. ORW
 R&G/Olympic PP/Estacada L
 Summit Timber
 Zip-O-Log Mills

Location

Eureka, Calif.
 Puillmath, Oregon

 Roseburg, Oregon
 Klamath Falls, Oregon
 Hoquiam, Washington
 Mapleton, Oregon
 Glendale, Oregon
 Medford, Oregon

 Salem, Oregon
 Eugene, Oregon
 Bandon, Oregon
 Estacada, Oregon
 Darrington, Washington
 Eugene, Oregon

Mr. VOLKMER. Did Judge Dwyer have testimony as to this at the hearing?

Mr. RUTZICK. Yes, he did.

Mr. VOLKMER. I don't find any of that in his order at all.

Mr. RUTZICK. No, you don't.

Mr. VOLKMER. I just find generalities pertaining to people, and I think it's almost offensive. If I was living out there I would find it very offensive that a judge says such things as those cursory remarks.

I will read for the record some of it. "Additional timber sale supplies from private lands can easily be expected in and marketed at a price if timber stumpage increases, as it probably will do, if Forest Service sales decline. In addition, some timber now exported will probably be diverted to the domestic market."

That's an assumption, in my opinion, that the judge is making. I don't argue that the prices will go up. That means that the prices to the consumers are going up and the price of a house or any other building is going to be increased. I think we ought to recognize that economic impact that this is starting to have. This is just the beginning.

Then the judge says, "To the extent the Pacific Northwest mills have had supply shortages, the problem has been exacerbated by the export of raw logs. About 30 percent of the timber harvest in Washington, and 11 percent of the harvest in Oregon is exported. Exports from private lands in Washington, Oregon, and northern California during 1989 totaled 3.637 billion board feet. The exported logs produced no mill jobs or added value in the United States. A ban on exports would not automatically shift every raw log to domestic buyers, but would provide a major source of additional supply. It is true, as the Forest Service and WLA point out, the transportation costs from western Washington to southern Oregon exceed those for logs produced in the immediate vicinity. They are nevertheless lower than the cost of transportation to Japan, China, or Korea."

That's apples and oranges, if I ever heard of apples and oranges.

Mr. SHER. If I may respond, Mr. Chairman, the conclusions that you have read from Judge Dwyer's opinion were all based on extensive testimony by expert witnesses, including cross examination. If the committee would like a copy of the 7 days of the hearings and the various exhibits, we can certainly provide them for the files.

Mr. VOLKMER. I don't see an export ban coming out of this Congress and signed by the President. Do you?

Mr. SHER. I would think that's up to—

Mr. VOLKMER. Private logs coming out of the Pacific Northwest, we have the most free trade representations up here I ever saw. You're going to ask those same people who constantly vote for free trade to turn around and vote for an export ban on private logs?

Mr. SHER. I'm happy to answer the question if you would like me to do so before Mr. Jontz—

Mr. JONTZ. If the chairman would yield, I think the evidence indicates that we do have choices. How much are those jobs worth to the members of the Pacific Northwest delegation? If they are worth a lot, then I would say that perhaps it would mean that there would be support for a temporary ban on log exports in order to

keep jobs in the Pacific Northwest. We have heard a great deal of testimony today about the value of jobs in the Pacific Northwest.

It is substantial and I agree. The point is that we have choices.

Mr. SHER. Mr. Chairman, the only thing I would add to that is that we are the only country in the world that exports jobs with its raw logs.

Mr. VOLKMER. We've been exporting jobs for years. We've been exporting jobs out of this country for years.

Mr. SHER. Let me add one further thing, then, for you to consider. There are two issues here. First is the short-term impact of waiting for the Forest Service to comply with the law, which the Forest Service told you that it would do by March 1992. Second is the long-term wisdom of whether or not raw logs should be exported, as we are discussing.

I don't think Congress, especially in trying to craft a short-term response, should confuse the two issues. What Judge Dwyer found—and I can assure you that it is well-based in the evidence and testimony that he heard—and by the way, we had this hearing at the request of the industry to put on the witnesses and to present the testimony. The evidence amply supports the judge's conclusions.

Mr. VOLKMER. Mr. Nesbit, from what you have said, it appears to me no matter what we devise in the Congress, it will probably be challenged. Is that correct? It will be challenged if it permits the cutting of trees out there in the BLM lands.

Mr. NESBIT. That would be better directed to Mr. Sher to find out whether he is going to do it on behalf of his clients. He knows better than anybody, but I would suspect that they would follow the pattern.

Mr. VOLKMER. The two suits that have just been brought against BLM, both in Oregon, by two different groups, one is for contracts that have already been signed, and the other is for proposed sales, which covers everything. Is that correct?

If they are able to find a judge that says they are right, and shuts them down, BLM doesn't cut any more trees, do they?

Mr. NESBIT. We haven't taken a position as to what the scope of the *ONRC v. BLM* case is yet. It would be a substantial blow to the existing contract supply in any case. The other case would stop all new contracts for 2 years, at least, until we get the case resolved and then have to deal with complying with whatever that court order would be.

Mr. SHER. Mr. Chairman, Mr. Nesbit indicated that he thought I should respond to the question. I do have some thoughts on it, if you would like to hear them.

Mr. VOLKMER. Sure.

Mr. SHER. There have been for well over a decade a large number of lawsuits that have been filed in the Pacific Northwest challenging larger to smaller groups of timber sales and various conduct by the agencies. With the exception of a very few of those, the injunctions sought by the plaintiffs in those cases have been denied for a variety of reasons. I think it is a very, very simplistic approach to equate the filing of lawsuits with the issuance of injunctions by the Federal courts that affect Federal management decisions.

Judge Dwyer asked me, during closing argument last week, whether if the Forest Service adopts the Thomas Committee recommendations following public notice and comment and the procedures required by the NFMA and NEPA, whether it would be legal or illegal in my view? The answer to that question—which I gave the judge and that I give to you—was that you can't say just from the information given.

If the plan were adopted without addressing the very fundamental concerns about implementation, coordination among the Federal agencies, the absence currently of a monitoring program, without addressing some of the concerns that have been raised by experts about the adequacy of the strategy itself, then it would certainly be vulnerable to a lawsuit. Whether or not various environmental groups would chose to bring it is of course a separate matter because the legality of an action is very different from the policy wisdom of it.

In this, it is important to keep in mind the way our system works. You all write the laws and entrust the executive branch with enforcing them and carrying them out. The courts are there only to assure that the bounds of discretion contained in those laws are not abused. It is a tribute, Mr. Chairman, to the extent to which the agencies have gotten outside of those bounds, the extremes, that we have enjoyed the success in the courts that we have.

The solution is to correct the violations of the law, not to insulate the agency from challenge in court.

Mr. VOLKMER. Mr. Raynor.

Mr. RAYNOR. Thank you, Mr. Chairman. I am the Assistant Solicitor for Fish and Wildlife, so I am essentially the Fish and Wildlife Service lawyer in Washington, DC. Ron Swan and Dave Gayer are with me and Roger Nesbit from Portland.

I would just agree that there is a great deal of litigation under the Endangered Species Act. It is a heavily litigated statute. On the other hand, the litigation that we've had throughout the country has been by no means a situation where the Fish and Wildlife Service or other agencies are enjoined. I think we actually have quite a good record. The owl, of course, is a very difficult situation.

The general point I was thinking about as the various witnesses testified this morning is that we do have a system of crosscutting laws. That's what we do all the time is wrestle with laws where the Fish and Wildlife Service applies its programs to other agencies and other agencies to us. So this is not an uncommon problem, it's just an uncommon dimension, I would say.

Thank you.

Mr. VOLKMER. I don't disagree with that, and I have probably taken more time, but Mr. Sher you pointed something out that I think—even if the Forest Service would adopt ISC verbatim, I read Judge Dwyer's order in that regard and I find some doubts in his mind. I guess all he would need is a few experts to testify—and I'm sure you could find them—that it is not sufficient, that even if they propose to do everything in there, that it's not sufficient, and therefore it will not be good enough.

Mr. SHER. No, Mr. Chairman, that's not right. That's actually the point I was trying to make. Maybe I can explain it a little better this way.

What the National Environmental Policy Act and the National Forest Management Act require is that the Forest Service go through the exercise of assuring that the public has an opportunity to express its views and that responsible scientists in the community have the opportunity to put in their views concerning the adequacy of various proposed strategies and actions.

The responsibility then of the agency is to take those things which it may not have thought of—that's the purpose of the process, from a scientific standpoint—take those things into account, consider, and either adopt or reject suggested changes. But the point is for the decisionmakers to have a full and complete record, scientific responsibility, not to sweep difficult problems or uncertainties under the rug.

Having taken those steps, gone through those procedures, and considered contrary and opposing viewpoints, the agency then is free to reject them so long as it can articulate a reasonable basis for doing so.

That's the difference that I was trying to articulate, Mr. Chairman, between disagreeing as a policy matter that the strategy is or isn't a good strategy on the one hand, and on the other hand being able to go into court and convince a judge that an agency has acted so unreasonably as to violate the law.

On that point, there are a number of lawsuits filed. I exercise in my practice a very significant screen. The courts are there to deny injunctions in cases that don't deserve them and to issue them in cases in which the evidence demonstrates that they are appropriate. The records on the spotted owl cases that we have been involved in are clear.

Mr. PERRY. Mr. Chairman, if I may respond to your question on behalf of the Forest Service, the difficulty that we face in coming up with an EIS and a sufficient plan for the spotted owl between now and March 5—

Mr. VOLKMER. February.

Mr. PERRY. The draft in February and the final by March 5.

Mr. VOLKMER. That's right.

Mr. PERRY. There are going to be a number of intervening acts that will affect our ability to plan and protect the spotted owl. The first of those will probably be the final designation of critical habitat by the Fish and Wildlife Service, which may very well affect our plans for spotted owl protection. So while we are in the process of developing this plan and this final EIS, we may very well have to go back and start over in order to incorporate the final critical habitat designation by Fish and Wildlife.

Then subsequent to that date, probably the end of the year, we may get the first report from the panel, which is determining the recovery plan for spotted owl. So once again we will start over, no doubt, to revise our EIS. Each time we start over, we will be out of compliance with the National Environmental Policy Act, and we will be out of compliance with our forest plans as we implement these protections required by the Endangered Species Act. Each time that happens we will be subject to lawsuits and undoubtedly

perhaps another finding that the agency is not in compliance with the law.

I think what this highlights, as you covered this morning, is that there needs to be some dovetailing between these statutes. As the agency proceeds, we are faced with either not adopting the latest protections required by the Endangered Species Act for protection of the various species, in addition to in many cases the spotted owl, or we are faced with being out of compliance because we will not be acting in accordance with our adopted forest plans and we will not have a NEPA document, usually an EIS, that is sufficient to fully analyze those actions that we are directed to take by one or more statutes.

So that is the predicament of the Forest Service. As Mr. Beuter indicated this morning, we have acted for the most part to follow the substantive law, to follow the direction of the Endangered Species Act, and then to attempt to comply with the procedural aspects of the law, to go back and amend forest plans or to do the necessary NEPA documents. But it is a process in which we never seem to catch up, and which Mr. Sher can often find that we are out of compliance.

Mr. VOLKMER. Mr. Sher, what do you have to say about that?

Mr. SHER. Mr. Chairman, what the Forest Service assumes is that more knowledge and better compliance with the laws will result in a conclusion that additional protections are necessary to protect the spotted owl from extinction. If the new information and developments indicate the contrary, then the agency simply doesn't face what has been expressed here. On this point, certainly Mr. Rutzick believes that new information indicates that we already don't need to do what the ISC recommended.

I think that the obligations imposed on the agencies under both NFMA and NEPA and parallel obligations under the Endangered Species Act that provide an incentive to the agency to keep abreast of current developments and to respond flexibly and responsibly to new developments as they occur are wise policies. They are very important. If you try to insulate the agency from new significant information, what you will find is that you first get a Bunker mentality, which sticks to old plans that are obsolete rather than acting on significant new information. Second, you will provide a disincentive to the agency to go out and discover whether that new information exists and whether the agency responsibly has to respond to it.

I think that there are two things wrong with what the Forest Service just said. The first is that the assumption is that as we learn more about the owl there will be a need for more restrictions. If that's true, then the agency absolutely ought to have to respond to it. But the second point is that those are good obligations on the agency under the existing laws.

Mr. VOLKMER. Mr. Sher, I disagree. I don't believe that Mr. Perry said what you said he said. I think we had better listen a little closer. I don't think Mr. Perry is saying that he is learning more about the owl. I think Mr. Perry said he's learning more about what you're going to do with the critical habitat and what is going to occur with the critical habitat.

Mr. Raynor, I think you have a lot to do with that. You are under an order from Judge Zilly. Is that correct?

Mr. RAYNOR. That is correct, Mr. Chairman.

Mr. VOLKMER. and we have a judge over here saying, "You do something." We have another judge over here saying, "You do something, you follow your law, but you follow your law."

You're not going to have that critical habitat designation and everything done for another 4, 5, 6, or 7 months, right?

Mr. RAYNOR. We're going to have a repropoed rule out approximately August 5, and then a final rule out in November or December. So you are correct, Mr. Chairman.

Mr. VOLKMER. That changes the whole ball game from what it is right now.

Mr. JONTZ. Would the gentleman yield?

Mr. VOLKMER. Yes.

Mr. JONTZ. Mr. Raynor, is there a problem with Fish and Wildlife sharing on a contemporaneous basis the information they have upon which they are making a critical habitat decision with the Forest Service? Is that a problem?

Mr. RAYNOR. Indeed, the present proposed rule is on the street for comment, so everybody has it, including the Forest Service.

Mr. JONTZ. So what does the Forest Service have to wait on? They have the data.

Mr. RAYNOR. They have the data as of right now. The comment period will close on June 5. The Fish and Wildlife Service will then have 60 days to come out with a repropoed rule. That will be a closed period. There are a vast number of comments and information that has to be gone through. In addition, you have to pull the economics in, as Director Turner expressed today. So there are real timeframes, but there is a lot of information out there.

The final point I wanted to make was that the ESA is a very biologically driven statute. It is based on science. To the degree that scientists are learning more about a particular critter, it does change things. I think that the Forest Service's concern in my mind is real. It's hard to keep up.

Mr. VOLKMER. I want to continue this.

Mr. Perry, tell me if I am correct or not.

At each stage, as you develop a record for whatever ROD you're going to come up with, before you reach a final stage, you're going to have to have public comment, are you not?

Mr. PERRY. That's right, Mr. Chairman. In addition, in our planning process, in which we amend our forest plans to comply with these decisions that we make, we have a 90-day comment period involved in the forest planning process, so our various procedures are almost never able to be in sync because we have this input of new information.

While it has been suggested that perhaps the additional requirements for the spotted owl may not be that great, they may well be different. If we look at the history of the spotted owl, the Forest Service long ago, in the mid-1980's, adopted the SOHA system, which was a lot of small protective areas for the spotted owl. Then we commissioned the interagency scientific committee, the so-called Thomas Committee, and that committee, by combining its expertise, learned that we needed much larger habitat areas.

So in the future we may get some combination of these, but the point is that we have a consistent change in learning about the various species that requires additional amendment.

Mr. VOLKMER. What I'm trying to get to is that if you would adopt anything at this time, you are going to be out of sync. Is that correct?

Mr. PERRY. That is correct. I expect that—

Mr. VOLKMER. And even in September, when they come out with their proposed rule after comment, you are still not able to do anything as far as a final nature is concerned.

Mr. PERRY. That final rule may well be amended and the recovery plan—

Mr. VOLKMER. They come up with their final rule on the critical habitat area by November, and then the recovery team comes in with their proposal in December. Let's say that is finalized in January. That's all new stuff, is it not?

Mr. PERRY. That is correct.

Mr. VOLKMER. Is that not, Mr. Sher? Is that old or is that new?

Mr. SHER. As Congressman Jontz pointed out, there is an opportunity for sharing information as you go along.

Mr. VOLKMER. You can share it as you go along, but can you make a final decision before that information is completed and final?

Mr. SHER. I'm trying to think of—

Mr. VOLKMER. If there is any change in it from what knowledge you had before—if there is any change at the final, then you're up a creek unless you adopt that final information.

Mr. SHER. That's not right, Mr. Chairman. The change in the information has to be first of all new, significant, probably accurate, and it has to change the overall picture. If that new information, which wasn't considered previously, demonstrates that there is a significant risk to the viability of the population—we are dealing with the extinction of a species here—then absolutely it ought to be—

Mr. VOLKMER. The judge has found right now that that is very viable, that it is going to be extinct because we can't cut another 66,000 acres.

Mr. SHER. What the judge found is that the risk of cutting those 66,000 acres will cross the threshold.

Mr. VOLKMER. That's right. That's the mind frame of that judge out there right now, Judge Dwyer.

Mr. SHER. That's what the evidence indicated, Mr. Chairman.

Mr. VOLKMER. I'm trying to get to the point where Judge Dwyer has given these people until February to do something that I say is nearly impossible to do.

Mr. SHER. I'm not sure what the problem is here. The Forest Service told you earlier today that they can come up with their new plan by the deadline that the judge set. We have the Fish and Wildlife Service, which should have done what it is doing now a year ago, and they say that we should have this going on by the end of the year. We are dealing with a situation in which experts believe that the loss of an additional 66,000 acres over the next 2 fiscal years could cross the threshold of extinction for the species, and a situation in which the agency has never made the decision,

has never taken that kind of information into account, and has never threatened to come up with a plan.

So under those circumstances, what is sensible, what the judge did, and what many of the experts who testified recommended, is that you intervene on the issue that you know is of concern, which is continued habitat loss, until the agency can make the decision and take these things into account.

That's the way the law works. It seems to me a sensible way for the law to work. For Congress to interfere with the operations of those laws runs the arrogant risk—frankly, Mr. Chairman—of trying to draw a line of what is acceptable for a species that isn't based on science and isn't based in the procedures and then runs the risk that Congress could be responsible for choosing extinction.

Mr. VOLKMER. Our next panel is going to be composed of people like Jack Ward Thomas and others that have a little bit to say about scientists. Then I find that there is a question of whether the ISC will prove to be adequate. Although endorsed by well-qualified scientists, it is criticized by other equally well-qualified as over optimistic and risky. Judge Dwyer said that, right?

Mr. SHER. That's what the experts told him. That's right.

Mr. VOLKMER. They're scientists, right?

Mr. SHER. Yes; they are. They are one group of scientists.

Mr. VOLKMER. You have other scientists disagreeing. You're telling me that those scientists are going to disagree with what the Forest Service does again?

Mr. SHER. No, that's not what I told you, Mr. Chairman. What I told you is that they may or may not disagree with what the Forest Service does at the end, but the issue of whether a court will issue an injunction is a very different question because that depends on whether or not the Forest Service has gone through the proper procedures.

Mr. VOLKMER. It all depends on the judge, too.

Mr. SHER. Well, that's true, and the evidence presented to him or her.

Mr. VOLKMER. That's right.

Mr. RUTZICK. Mr. Chairman, may I add a comment briefly?

Mr. VOLKMER. Yes, and then I'm going to quit because I have taken more than my fair share of time.

Mr. RUTZICK. I would like to say for the record that the testimony before Judge Dwyer indicated that all of the biologists that identified themselves as experts on the northern spotted owl expressed confidence in the ISC strategy. Those who expressed doubts about it all admitted under oath that they were not experts on the northern spotted owl.

Mr. VOLKMER. They were not experts?

Mr. RUTZICK. They were not experts. That is correct, Mr. Chairman.

The second point I would like to make is that——

Mr. VOLKMER. Are you telling me that Judge Dwyer made them experts?

Mr. RUTZICK. I can't answer that, Mr. Chairman.

Mr. VOLKMER. It appears to me that he did, but go ahead.

Mr. RUTZICK. The second point I want to make is that the March deadline that the judge set for the Forest Service was not based on

any analysis of when the Forest Service can complete the new plan. I have heard the Chief tell you this morning that they're going to meet the March deadline, which is real interesting because George Leonard told Judge Dwyer that they could not complete the new plan until September 1992. I don't think the committee ought to bet that the Forest Service will have its new spotted owl plan completed by March 1992 and that timber sales will begin to flow again in March 1992.

Mr. JONTZ. Will the chairman yield?

Mr. VOLKMER. I will quit.

Mr. JONTZ. I think Mr. Sher should have a chance to respond to this idea that all of the experts had one view and the nonexperts had another view.

Mr. SHER. The judge's opinion indicates, Mr. Chairman, that there were well-qualified experts on both sides. There was a distinction between experts who were spotted owl biologists and experts who were experts in species extinction and population viability. There were the latter on both sides.

Mr. VOLKMER. The gentleman from Washington.

Mr. MORRISON. Thank you, Mr. Chairman.

I am led to one basic conclusion here, and that is that we have created all sorts of coat hooks for Mr. Sher to hang a variety of different cases on, and he has done a very effective job of it.

Mr. Raynor, are you concerned that Judge Zilly's finding mandating that you establish critical habitat could establish a precedent for the some two-thirds of the species for which you have not determined critical habitat?

Mr. RAYNOR. Absolutely.

Mr. MORRISON. And this could have a significant impact then on other forest areas such as those inhabited by the red cockaded woodpecker?

Mr. RAYNOR. Any species that is listed will be affected by the Judge Zilly decision, in my opinion.

Mr. VOLKMER. What you are telling me is that if Judge Zilly decision stands and there is no appeal, then if somebody would file suit in Texas, Arkansas, Louisiana, Alabama, Mississippi, or anyplace else where the red cockaded woodpecker is located, if they get a judge there to agree with Judge Zilly's decision, then you could have a critical habitat having to be formed. Is that correct?

Mr. RAYNOR. Yes, Mr. Chairman.

Just a touch of background, the Fish and Wildlife Service has not traditionally done critical habitat on the vast majority of species on its list. Critical habitat findings are ponderous. Basically a policy call, they would rather list more things than do critical habitats for the things they list. So there are critical habitats, but they haven't been emphasized. I've been in my present job for 5 years, and I certainly surnamed off on a lot of those.

The Judge Zilly decision is going to make it much, much more difficult to make a finding of not prudent or not determinable for critical habitat, not that it's binding as such in another circuit before another judge, but it is certainly persuasive. So I think the word "absolutely" is very true that we see this as a whole new area that we are going to have to concentrate on with the Service in order to stay in compliance with the law.

Mr. VOLKMER. Thank you.

Mr. MORRISON. My next question I think I will direct to both Mr. Raynor and Mr. Perry.

Thank goodness I am not an attorney, but I don't understand why a management plan is mandated by Judge Dwyer for the Forest Service has to be different than a recovery plan as to be issued by the Fish and Wildlife Service. Aren't they aimed at the same creature in the same forest?

Mr. RAYNOR. Let me try a general answer and then get more specific. Essentially, the Forest Service, Park Service, and the Fish and Wildlife Service have their own committees and their own laws. We all do our job separately except where something brings us together. The owl has brought us together.

The Fish and Wildlife Service has an independent responsibility to come up with a recovery plan for the owl, and it will do that. The Forest Service has its own responsibilities to plan its business. The fact that the owl is so important to the area makes your point well taken that we are both focusing on the same issue, but in many other cases that wouldn't be true.

Let me refer to Jim for perhaps a better answer from the Forest Service side.

Mr. PERRY. Judge Dwyer found the Forest Service lacking in having failed to properly implement a plan required by the National Forest Management Act regulations on wildlife. It was the Government's legal position, and remains the Government's legal position, that there is no overlap between these two statutes, that the Forest Service wildlife responsibility is covered by its National Forest Management Act requirements until the species is listed under the Endangered Species Act. At that point in time, then the requirements of the Endangered Species Act should apply and there should be no overlap.

Judge Dwyer disagreed with this view. We maintain that it is still the best view of the law and may well form the Government's basis for an appeal.

Mr. MORRISON. It makes sense to this Member of Congress that you should not have that double jeopardy. I have asked that question of others earlier in this session.

I have just one last question. Mr. Perry, we have bandied about some numbers here, as Judge Dwyer has come forth with. How secure are those harvest levels that have been talked about? Are they subject to a variety of appeals? I represent the eastern side of the Cascade Range in Washington, and you're counting on millions of board feet in those areas. What protection is there? What assurance do we have that those can be harvested?

Mr. PERRY. There would be no particular assurance that those could be harvested. They would be subject to the same type of administrative appeal and possibly lawsuits based on other species, Clean Water Act, or various other environmental statutes if there were plaintiffs wishing to bring about such action.

Mr. MORRISON. Mr. Sher, you have indicated as part of your almost defense mechanism, since you have a little bit of blood on your hands, that this level of harvest is going to be available. Are you going to appeal these sales?

Mr. SHER. The volume under contract is not being challenged. That is already sold. It is available for harvest. Your question went to future timber sales. The Forest Service's expert on this point, Steve Paulson, testified a couple of weeks ago in front of Judge Dwyer that the volume that is reflected in the judge's conclusion already had excluded an additional volume that the Forest Service considered to be at risk.

At some point, Congressman, the Forest Service has to make a judgment call as to its confidence in its ability to get out certain volumes of timber. These are the figures the agency told the court—and that I'm confident it would tell you if you were to ask the right people in the Forest Service — that it has confidence it can sell.

Now if something completely unforeseen were to come up—another Mount St. Helens or something like that—I suppose there are a lot of reasons why various scenarios might change.

Now as to your question as to what I intend to challenge, I have no plans to challenge any of that volume, certainly not on spotted owl grounds.

Mr. MORRISON. Thank you.

Mr. Nesbit.

Mr. NESBIT. Mr. Sher doesn't have a monopoly on representing environmental groups, and there have been other attorneys that have brought lawsuits on existing contracts.

Mr. MORRISON. We have noticed.

Mr. PERRY. If I might respond further, it is true that this particular decision did not indicate that it would overturn any existing sales. The Forest Service has received a written notice of intent to sue under the Endangered Species Act, and that may well suggest that there will be challenges once critical habitat is finally designated to existing sales. Until the final critical habitat is designated and until we get additional rules as to what might be appropriate conduct within critical habitat, we really won't know the status of those sales.

Mr. MORRISON. Thank you.

Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from Indiana.

Mr. JONTZ. Thank you, Mr. Chairman.

Mr. Sher, we have heard some discussion over these last few minutes about the difficulty the agencies have in responding to new information in harmonizing the processes, so to speak. The impression that one gets is that it is just an impossible job for the folks making the decisions in the Forest Service to respond to this new decision and this new bit of information, what have you.

You have pointed out that the requirements of the law go to information that is new, significant, probably accurate, and would change the situation.

Mr. SHER. That's right, Congressman.

Mr. JONTZ. Tell me this. Is it always the case that the agency has to change their plan because of this sort of new information popping up here and there, or are there cases where the agency chose to ignore information for different reasons, perhaps political intervention, or simply chose to ignore their own sciences? Is it always the case of new information popping up, or is it sometimes the case

where the agency chooses not to pay attention to information that they have access to?

Mr. SHER. If I understand your question, there are several different levels on which it needs to be answered. The first point is that unfortunately our experience has been that Federal agencies not infrequently ignore significant new information. There have been lawsuits—not just on the spotted owl but around the country—about that, some of which have succeeded and some of which have not.

The Supreme Court a couple of years ago set out the standard that an agency must employ in considering new information and said that if the agency considers new information, but determines it with a rational basis not to be significant or probably accurate or not to change the picture, then it is entitled not to act on the basis of it.

So you have a couple of different things here. You have what the agencies do in practice, and then under what circumstances the courts will step in to correct an agency's failure to act.

Mr. JONTZ. And it's the failure to consider it that will get the agency in trouble. They don't have to change their minds, they just have to demonstrate that they have considered it, correct?

Mr. SHER. That's right.

Mr. JONTZ. In many cases, presumably they would consider it and it would not change materially the situation, but in other cases it might.

Mr. SHER. That's right.

Mr. JONTZ. Let's return for a couple of minutes to the subject of distribution of timber. Mr. Rutzick, you quoted figures for the committee with regard to the number of mills that may be facing short supply in the next 6 months or the next 12 months. Do you feel that under these circumstances some public policy would be served were the Congress to decide that some portion of the timber that would be sold this next year—the 1.3 billion board feet—would be directed to mills that were otherwise going to close?

Mr. RUTZICK. A public policy would be served. Whether that is a wise public policy is a matter of difference. Personally, I wouldn't believe so.

Mr. JONTZ. Why would you not believe so if you're talking about jobs?

Mr. RUTZICK. As a general purpose, my own personal philosophy—and I'm not speaking for anyone but myself—I'm not particularly in favor of Government intervening in market forces.

Mr. JONTZ. I guess that means your attraction to the policy of market forces exceeds your interest in keeping those mills open. Is that correct?

Mr. RUTZICK. I wouldn't say that at all.

Mr. JONTZ. You said that you felt the reason we shouldn't direct timber supply to specific mills is because of market forces.

Mr. RUTZICK. No.

Mr. JONTZ. Then you would tell us again the reason you don't think we should direct timber supply to specific mills?

Mr. RUTZICK. I am not personally in favor of Government interfering with market forces.

Mr. JONTZ. I guess it's a question the Congress should take up, in my opinion, as to whether there is some wisdom, but we do have a choice.

Mr. RUTZICK. It would be hazardous to base an analysis solely upon the volume of timber available to each company because of a variety of physical, economic, and financial circumstances which practically make timber that is under contract not available to a company at a particular period of time. That is another reason why it would be exceedingly difficult, indeed impossible, for Congress to attempt meaningfully to direct timber sales to a particular company and achieve the result of avoiding employment effects that would otherwise occur.

I can elaborate, if you would like.

Mr. JONTZ. Mr. Sher, do you have any comments on that?

Mr. SHER. No; I don't.

Mr. VOLKMER. Would the gentleman yield?

Mr. JONTZ. Certainly.

Mr. VOLKMER. I was just sitting here thinking about that. Are we going to give it on no bid? Are we going to say that this mill needs lumber so we're going to let you have it no matter what?

Mr. SHER. Well, what if we decide that there are companies that had adequate reserves of their own that should be excluded from bidding on a certain number of sales, and only those companies that did not have their own private land holdings would—

Mr. JONTZ. Well, what if we decide that there were companies that had adequate reserves of their own that should be excluded from bidding on a certain number of sales and only those companies which did not have their own private landholdings would be allowed to bid.

Mr. VOLKMER. And if the mill is one place and the lumber is 100 miles away?

Mr. JONTZ. If they decide they want to bid for it.

Mr. RUTZICK. There are a variety of Federal policies in place that influence some of these decisions. For example, under the export law that was passed last year, if a company is exporting logs out of a tributary area they are not eligible to buy Federal timber sales. That has the effect of generally requiring a company to choose—a company that owns private timber lands—between either processing their private wood domestically or buying Federal timber sales.

In addition, there is a Federal small business set-aside program which, while it does not differentiate between companies that own private timberland and companies that do not, the general effect of the Small Business Program—it's a generalization—is that the companies qualified for small business scales are generally not large, private timberland owners.

That also has the effect of directing Federal timber sales for that segment of the program to companies that are more Federally dependent and have less alternate supply available.

Mr. JONTZ. I appreciate that. I guess the question then becomes: Are there further steps which can be taken to see that public timber goes to places where the need is most critical? Perhaps it is impossible to do that. I just raise that issue. You have only so much timber, and it seems to me that there may be legitimate grounds to see that it is used in a way that maximizes employment.

Mr. RUTZICK. Frankly, you could never devise such a program in time for it to be effective as a short-term solution to the current problem.

Mr. JONTZ. I might ask Mr. Perry a couple of questions.

There are a number of provisions in H.R. 2463 which I think deserve some study. All of us are in the same situation. The bill has been filed just very recently. But let me see if I can ask you some general questions, Mr. Perry, about some procedures, and maybe you can help us understand some things about H.R. 2463.

Does the Forest Service take the position that forest plans are a blueprint for all site-specific activities on the forest for the 10-year life of the plan?

Mr. PERRY. In general the forest plan is sort of a zoning ordinance which covers the type of activities and provides guidance to the public and to the forest managers of the types of activities that might be undertaken within the forest. However, it is a dynamic document and it is subject to change. The rules are not ironclad in the sense that an amendment process cannot take place if it is in the public interest.

Mr. JONTZ. So would you say that it would be unrealistic and wrong to try to identify, analyze, and schedule a number of projects or activities that occur on the forest in the plan?

Mr. PERRY. It would be extremely difficult to schedule a large number of project activities in the 10- to 15-year period in which the plan would apply because normally the agency would be required to do environmental documentation on these various projects, and it is impossible at an early stage of the plan to develop that type of site-specific information. Indeed, if it were, our forest planning document would be about 7 feet tall.

Mr. JONTZ. So that sort of site-specific planning occurs at the project level planning stage?

Mr. PERRY. Yes.

Mr. JONTZ. Would I assume, then, it is difficult, if not impossible, for the agency to undertake to foresee specific projects, etc., to that extent, that it would also be impossible for citizens to identify all the issues that might arise with regard to those specifics over the 10-year life of the plan?

Mr. PERRY. It would be difficult.

Mr. JONTZ. Would it be easier or harder for the citizens than for the agency?

Mr. PERRY. Perhaps equally easy or difficult.

Mr. JONTZ. Mr. Rutzick, you have heard what Mr. Perry said, and maybe it is—I don't know whether it is fair to ask you questions about the timber industry bill, H.R. 2463, or not. The way I understand that legislation it would prohibit citizens from challenging a forest plan or other agency actions unless they had not only participated in the initial comment period, but unless they were also able to foresee much better than the Forest Service has admitted they can all the issues that might arise in the 10-year history of that plan. Do you think that's a fair requirement in that legislation?

Mr. RUTZICK. To be perfectly honest, I really have not reviewed the bill you are referring to, and it would be hard for me to comment on the specifics of that. I'll say a little bit more if you want.

I think that it is reasonable for Congress to consider limitations on the extent to which litigation can disrupt an agency's implementation of an ongoing program. I couldn't debate with you whether that particular restriction is appropriate, but I think the subject of discussing limitations on citizen suits is appropriate for Congress.

Mr. JONTZ. Well, there are a number of sections—sections 210, 211, 212, and 213—that prohibit appeal without prior participation in initial plan development, etc., and specific comment at that time on the issues being challenged.

Mr. Sher, do you think that's a fair requirement?

Mr. SHER. No, I don't, for the reasons that you have brought out. Distinguishing between what constitutes activities under a plan and what constitutes particular activities which, under the proposal, would be not only distinguished by what has to be raised when in which process, but also would go to different courts—one would go to the court of appeals and one would go to the district court for review—places an impossible burden on both the agency, I think, and on the citizens. It creates a shell game in which the pea might be under no shell. The result would be that the administrative agency wouldn't be making certain decisions, citizens couldn't know when they had to raise certain issues or in what forum, and if they guessed wrong the action would go unexamined.

Mr. JONTZ. I'm not sure who I can ask questions of with regard to this bill, but I'll try a couple others.

Mr. Sher, I think you make reference in your statement to section 106 with regard to review of administrative set-asides. Would you explain your understanding of what that section means?

Mr. SHER. Well, my comment in our testimony was because the language of the section is extraordinarily broad. Perhaps a better person to ask would be Congressman Huckaby or some of the others who are involved in the bill. It appears to open up for reconsideration all land allocations, including things like wilderness areas, riparian protection zones, and other set-asides for recreation or wilderness use.

Mr. JONTZ. Just in region 6?

Mr. SHER. No. It appears to be nationwide.

Mr. JONTZ. Nationwide?

Mr. SHER. There is no limiting language in the section.

Mr. JONTZ. Well, Mr. Huckaby isn't here, so I guess I can't ask that question of him now.

Let me ask you about one other section. I think this pertains just to the Pacific Northwest. Section 304, interim timber sales programs, "Subject only to the provision of this title and notwithstanding any provision of law or order of a court to the contrary for each full fiscal year in which the interim program established pursuant to this title is in effect, the Secretary shall offer for sale certain volume."

Does that mean that provisions of the Endangered Species Act, NFMA, National Environmental Policy Act, etc., would all be set aside? Am I reading that correctly?

Mr. SHER. Again, it is impossible to know from the language that is before us what is actually intended here, but the language, itself, completely suspends during the interim period all existing laws

and court orders both in and out of old-growth areas and strips the Federal courts of jurisdiction to hear anything but compliance with those interim guidelines which are not defined at the outset by the law. So this affects not just old growth and owls, but clean water, clean air, and all of the other statutes that ordinarily would affect management decisions in these areas.

Mr. JONTZ. And Mr. Rutzick, what you're telling me is you are not familiar with the legislation, so you would not be able to comment on those specific provisions?

Mr. RUTZICK. What are the questions?

Mr. JONTZ. The specific provisions that we were discussing, that particular section, whether you agree with Mr. Sher that that's the proper interpretation of section 304. Are you familiar with that in the bill H.R. 2463?

Mr. RUTZICK. No, but I understand the concept. There are two ways that Congress can achieve certainty, it seems fairly obvious. One is to modify the substantive laws to make them easier for the agencies to apply. If Congress does not choose to do that, the other way to achieve certainty is by restricting the means for achieving uncertainty. This bill appears to select the latter alternative. Conceptually it is easy to understand, and it is again an appropriate way for Congress to provide certainty, which appears to be something that is widely recognized as necessary.

Mr. JONTZ. If we choose to prevent the application of any of those laws, the way it is written it would just be all laws, basically—all laws and all court cases. Is that the way you read that language?

Mr. RUTZICK. I'm just listening to you, but it sounded pretty broad. I interpret it not that the agencies are not to follow the laws, but rather that court injunctions could not disrupt a program based on those laws.

Mr. JONTZ. I appreciate the distinction.

Mr. Sher, I would like to give you one additional opportunity to comment on this notion of harmonizing the laws that we have heard spoken of today. Do you think that there is a legitimate need to harmonize the laws, or would we really be solving any problems by making the sort of changes that are implied by this concept? I guess we have no harmonization proposal in front of us, but were we to have such a proposal do you think that would be barking up the right tree?

Mr. SHER. Congressman, I actually think that the laws are harmonious currently, and the problem is that the agencies haven't been following them.

You have a series of laws enacted roughly over the—well, most of them between 1969 and 1976, each of which provided an additional layer of obligations by the Federal land managing agencies with respect to somewhat different policies, but all of which were intended to apply. When Congress enacted each subsequent act, it was done with full knowledge of what was in existence before hand.

For instance, you have the Endangered Species Act of 1973, which followed by 4 years the National Environmental Policy Act, and then you had the National Forest Management Act that came in 1976, again with NEPA and the Endangered Species Act already

in place. If you go back and look at the legislative history, Congress was well aware of what it was doing and intended certain overriding policies of responsibility toward the environment to be implemented by the Federal agencies.

I don't see any problem in the harmonies of the laws; I see a breakdown in the effective implementation and carrying out of those obligations which has lead to a cacophony in the Northwest and elsewhere.

Mr. JONTZ. That completes my questions, Mr. Chairman.

Mr. VOLKMER. The gentleman from Oregon.

Mr. KOPETSKI. Thank you, Mr. Chairman.

I am one of those people that recognizes this as a government of law and not of men or women, and whether we like it or not, therefore, we have to have courts and attorneys. I think we ought to be thankful that we have this way of arbitrating our differences in society.

With that, I want to ask Mr. Sher a couple of questions.

I guess the first question is: Do you think your client wants to see any kind of a timber harvest on any kind of public lands this year or next year in the Northwest?

Mr. SHER. Absolutely.

Mr. KOPETSKI. And in terms of—I don't know if you have received the benefit of today's testimony or not, but we had some very interesting testimony, some very good testimony, and testimony I think that lends us to coming up with some good decisions and seeing that we do have a harvest and timber economy in the Northwest included in the next 2 years.

Mr. SHER. Congressman, if I can clarify—I don't know whether any of my clients has an interest in seeing timber sold illegally from the Federal lands. So if the assumption is guaranteeing cut at the expense of the environment or the environmental laws, I think you'd run into a problem there. But certainly the goal of the lawsuits in which I have participated has never been to eliminate logging or other uses of the public lands; it has been intended to ensure that it would occur in compliance with the law and that the environment could be able to sustain those uses.

Mr. KOPETSKI. I think all of that goes without saying, but it is fine if—

Mr. SHER. Well, when the committee hears testimony about sufficiency and guarantees, then it sounds to me like a discussion of putting the timber sale decisions and the actions of the Federal agencies above the law. Certainly my clients do not agree with that.

Mr. KOPETSKI. You were doing so good, except, you see, if the Congress writes that as law, then that is the law.

Mr. SHER. That's true, I applaud the committee and Chairman Volkmer for taking on these issues substantively. It has been a sad history in the last several years that decisions like the ones you are talking about have been made in an appropriations forum where citizens have not had an opportunity to participate in this decision-making.

Mr. KOPETSKI. You see, I think it is actually going to be able to frame a long-term solution to what is happening than the interim solution, and that's because I think we have a major breakthrough

today where the administration for the first time is on record and in writing saying that they support an ancient forest or an old-growth designation kind of system. But what I am worried about is what we do in the meantime in the next 1, 2, or 3 years or whatever it takes in this transition time to get there, how we get to—how we have some sort of harvest on BLM and Forest Service lands.

Now, by your previous comment you are saying you get very worried and anxious when you hear the term "sufficiency" come up. Maybe you could help us out here. Is there a different avenue other than going down this idea road toward some sort of sufficiency language? When I say sufficiency, what I have in my mind is on areas of lands that are—hopefully there will be as little question as possible and it is not going into some of the controversial areas of the Opal Creeks of the Northwest, for example, but some other areas.

So, given that, is there a different way that we could address this problem of what we do in the transition period and have a timber harvest?

Mr. SHER. Let me respond to your question as a lawyer in two ways.

The first question is: Does Congress have the constitutional authority to undertake the kind of actions you are describing? The answer is probably yes.

The second question is: Do I think that my clients would support such an approach? If it would be at the expense of a number of existing policies and existing legal obligations, the answer would probably be no. We think that the surest way to have certainty and continuous timber supply from the Northwest is for the agencies responsible for managing the lands to comply with the law, and that existing laws are by and large good things, and that there has been a terrible breakdown in that compliance.

Mr. VOLKMER. Would the gentleman yield?

Mr. KOPETSKI. Yes, Mr. Chairman.

Mr. VOLKMER. You also, Mr. Sher, believe that as part of that we should ban the exports.

Mr. SHER. No, Mr. Chairman. I didn't say that. I think that—

Mr. VOLKMER. I know you didn't say that.

Mr. SHER. And I don't necessarily believe it.

Mr. KOPETSKI. Your clients don't?

Mr. SHER. Well, my clients may have views on that that are not within the scope of my representation of them. Let me say this: I think, as I have indicated in my earlier testimony, that there is a legitimate issue there that ought to be addressed as a matter of policy whether long term we ought to be exporting logs without limitation. In the short term, I don't believe any ban is necessary to avoid impacts to the timber industry while the Forest Service comes into compliance with the law although, again, those may be desirable.

The citizens of Oregon voted 9 to 1—90 percent—in a referendum to limit log exports from that State a couple of years ago.

Mr. KOPETSKI. Mr. Chair, for the record, that is true. We did have strong support of that. That was limited to State lands. That

doesn't go to the—it is a whole different issue of whether we want to talk about doing that on private sector lands.

Mr. SHER. That's an issue that ought to be debated in a different forum.

Mr. KOPETSKI. And I'm sure if Representative DeFazio was here he would want to debate it right here and now. But we are here to talk about these other issues.

Thanks, Mr. Chairman.

Mr. VOLKMER. I have no further questions.

I want to thank this panel very much for being with us today and having your testimony. It has been very helpful. We'll probably working with Mr. Perry. We'll probably be in touch with you as time goes on, and also Mr. Raynor, as this whole thing develops through the year. I don't want to write something that is going to be out of whack with what you are doing or what Mr. Perry is trying to do.

Mr. Sher, that's the other problem. We write new law. Let's say the bill goes into effect in October. That has an effect on what USDA Forest Service does, too, does it not?

Mr. SHER. Sure. It will have an effect on me, too.

Mr. VOLKMER. See what I mean?

Mr. SHER. Absolutely.

Mr. VOLKMER. All right. So it is kind of a fluid thing. Do you agree?

Mr. SHER. Not knowing what Congress is going to do certainly leaves us with a fluid situation.

Mr. VOLKMER. Right.

Mr. SHER. Just as not knowing what the agency is going to do leaves us with a fluid situation, and just as we have had a fluid situation for some time now, which has been the result of interference with the agency's compliance with the law.

Mr. VOLKMER. Thank you very much.

Our next panel consists of: Mr. Jack Ward Thomas, Chief Research Biologist, Forest and Rain Science Laboratory, Forest Service, U.S. Department of Agriculture, from LeGrand, Oregon; Mr. Jerry Franklin, chief biologist, college of forest resources, University of Washington, Seattle; Dr. Norman Johnson, department of forest resources, Oregon State University, Corvallis; and Dr. John Gordon, dean, school of forestry and environmental studies, Yale University, New Haven, Connecticut.

I know it has been a long day just sitting and waiting. Sorry about that. I really am. I guess we asked too many questions of different panels.

We'll start with Dr. Thomas.

Mr. THOMAS. Mr. Chairman, I was invited here today as a technical witness. I don't have a statement. I'm here to answer questions.

Mr. VOLKMER. Fine. We'll have some.

Does anyone have a prepared statement, or are we going to Dr. Johnson, I know he does. I have read his. Do you want to go ahead and read it or summarize it?

Mr. JOHNSON. Yes. I'd like to read it.

Mr. VOLKMER. Go right ahead.

**STATEMENT OF K. NORMAN JOHNSON, ASSOCIATE PROFESSOR,
FOREST MANAGEMENT, COLLEGE OF FORESTRY, OREGON
STATE UNIVERSITY**

Mr. JOHNSON. My name is Norm Johnson. I am associate professor of forest management at Oregon State University and have worked both as a student and a researcher in forest planning for about 15 years, especially in the Northwest—most recently I served as a forestry advisor to Governor Goldschmidt—and during that time was able to hike many of the forests in Oregon, in addition to doing analysis on forest plans.

I want to make six points to start off that I thought might be helpful to your subcommittee in deliberations.

The first point is that the allowable sales quantities estimated in the new national forest plans are unrealistic, I believe. In the recently published national forest plans for region 6 the Forest Service estimates that it can harvest an allowable sale quantity of 3.4 billion board feet a year. Overlaying the Thomas report on these plans lowers that estimate to approximately 2.6 billion.

It is doubtful that these levels of harvest can be sustained while meeting other forest plan objectives such as protecting riparian areas, producing big game, and providing scenic values and disbursed recreation opportunities.

The Forest Service developed its national forest plans under a process in which the ASQ represented an upper limit on harvest, which would be then refined during plan implementation. Meeting the allowable sale quantity will require harvest in many controversial areas. In addition, it involves a high level of management intensification and extensive use of clear-cutting.

The Forest Service has made it clear that the standards and guidelines for protection and production of resources other than timber take precedence over achievement of the ASQ; therefore, the sustainable level of timber harvest in region 6 is probably lower than stated—with or without the Thomas report.

The second point is that departures will be difficult to implement. Most fundamentally, and just to summarize that, they will be difficult to implement because the Forest Service, due to roadless area restrictions and other rules, has basically been going back to the same areas over and over again to harvest, and to depart from sustained yield might require again returning to those areas which would be difficult.

The third point is that clearcutting will still predominate under the new forest plans. Even with the 50-11-40 rule out of the Thomas report, which slightly lengthened rotation but didn't change forest management practices. Changing these practices to encourage the retention of mature and old-growth forest structure during harvest may be desirable, i.e., through new forestry, but it will result in a further reduction in harvest levels.

The fourth point is the remaining timber base is a mixture of old growth, other natural stands, and managed stands. Basically, there may be harvest opportunities in some of the other natural stands that are not old growth, but the managed stands basically are too young to harvest by and large in the national forest.

The fifth point is that old-growth withdrawals can significantly affect ASQ. If your deliberations result in temporarily withdrawing additional old-growth stands from timber harvest to enable their further study, you'll be faced with the dilemma of whether or not to adjust the harvest to the sustainable level without these stands.

Since Forest Service harvests for the next few decades depend heavily on old-growth timber, removing these stands from the timber base will result in a significant decline in harvest in most national forests in the Douglas-fir region. Yet, not removing them from the timber base as they are studied will result in the Forest Service once again harvesting against a land base that is only partially available.

Finally, the sixth point is that it will be difficult to raise the harvest level by shifting habitat conservation areas, the reserves in the Thomas plan. By and large, the Thomas committee tried to minimize the timber harvest impact of their plan, given their objectives. To increase the harvest either the design principles must be changed or the area of which the strategy will be applied must be reduced.

It is perhaps possible though to shift the habitat conservation areas to increase the certainty of the harvest through covering controversial areas such as roadless areas.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Johnson appears at the conclusion of the hearing.]

Mr. VOLKMER. The gentleman from Washington.

Mr. MORRISON. Thank you, Mr. Chairman.

It's almost as if we had Norm go first with his statement so I could ask you all if you agree with his six points.

Norm, I guess the first question is: You indicate that the 3.4 modified by your colleague down to 2.6 is very much in doubt. Do you then have an estimate of what those numbers should accurately be? Maybe more important, in your deliberations on our behalf at the request of the committee are you using lower, more accurate figures in those deliberations so we don't end up with a misleading number? That's the last thing we want to do.

Mr. JOHNSON. Well, Congressman Morrison, first off, our group has only realized today that they might be a group, so we have just talked briefly about what we might do. We haven't gone far enough to actually discuss how we'd do the analysis.

I think one of the keys here has to do with the questions that are asked. You get one answer if you ask what is an upper limit to the harvest that you might achieve, and another answer if you ask what can the national forest produce with some confidence. I don't yet know how we will approach this assignment as we undertake this assignment that you have given us. I would guess that we would try to deal with an estimate in which there is some confidence that it can be delivered. I really don't know at this point how we are going to approach it.

Mr. MORRISON. On behalf of the subcommittee and the committee, I certainly would urge that the numbers we work with be realistic. I think we have mislead people in the past. In fact, your old growth withdrawals can significantly affect the ASQ. I'd almost rather come down to a sustainable level, and then if there is any

rebuilding add to that, as opposed to doing the opposite which is to further provide an inflated figure for the industry.

I would invite others to comment, because I presume by your silence that you are agreeing totally with Dr. Johnson.

Jerry Franklin, you've never totally agreed with anyone.

Mr. FRANKLIN. Congressman, I have too. I agree very much with Norm's figures on this and with his approach to it. In fact, I view Norm as being the individual that has the best handle on both what truly is sustainable and how these various alternatives might affect that level.

I think his point about what is possible is very important. That is, we can look at ASQ as sort of a maximum possibility if everything breaks our way, or we can take a very realistic attitude and be sure that this is—we can be pretty sure of getting through the process on a continuing, sustained basis. And so I think the distinction he makes is a very important one. I concur with his judgments.

Mr. MORRISON. Dr. Thomas, one of the points is this question of difficulty to raise the harvest by shifting HCA's. Does Dr. Johnson's conclusion that you can increase the certainty by still adhering to the design principles of your concept wash?

Mr. THOMAS. Congressman, one of the things you are going to have to keep in mind is that we now are looking at two issues simultaneously. One is spotted owl conservation, and the other is the old-growth question. Those two things overlap, but they are also distinctly different.

I think the point that we are making is that we originally constructed the HCA design in order to give us a good probability of success but to minimize the impact on harvest, so in some cases we left out old growth and took suitable owl habitat which was lesser in volume, etc.

If we wiggle the HCA boundaries in order to accomplish old growth to come up with a plan that does both things at the same time, in most cases we are going to be substituting higher-value stands for lower-value stands.

In essence, I don't think there is any particular volume one will pick up there, but I would agree that we might end up with some more stability.

Mr. MORRISON. Higher value from the viewpoint of removing more timber from the harvestable base?

Mr. THOMAS. Yes. But I'm talking about more value in the sense of standing timber volume.

Mr. MORRISON. Not necessarily greater value as far as recovery of the owl?

Mr. THOMAS. That would have to be determined. I think in some cases we might end up with a better owl plan but it will not come at no cost and it will not come in the process of making the impact on the ASQ lower. If we try to achieve an old growth strategy combined with an owl plan, the cost will not be less than the ISC strategy; it will be more almost inevitably.

Mr. MORRISON. I think all of us have clenched our teeth and realize that that's going to be the case. I guess the question mark for those of us in the areas impacted is whether we can lessen the impact of that in these important old-growth areas by modifying

your HCA's because we're making up for them in old-growth areas that you might not have selected because you were attempting to protect those timber production values.

Mr. THOMAS. If you consider the two things independently, that would be true. If they are considered jointly, the joint consideration I think would be less than the two things considered independently, but it will still obviously be more than the ISC strategy.

Mr. MORRISON. How much less?

Mr. THOMAS. How much less considered in tandem?

Mr. MORRISON. Yes.

Mr. THOMAS. I don't now.

Mr. MORRISON. That's an unfair question.

My time is up. Thank you, Mr. Chairman.

Mr. VOLKMER. Reviewing Judge Dwyer's decision, have you read the part about the ISC?

Mr. THOMAS. Yes, sir.

Mr. VOLKMER. It seems that the judge, because of some of the witnesses and because of a statement that he reports to give to the Fish and Wildlife Service, has some doubts about the ISC strategy as a valid strategy for the preservation of the owl.

Mr. THOMAS. I don't think I read it that way. I think the way that I read it was that by the time we did the ISC strategy the owl was not listed. We did a plan that we said would have a high probability of sustaining the owl over a 100-year period. Since that report was issued, the owl was listed.

I think the question has to do, in the judge's mind—I'm just guessing, but I sat there and listened for 10 days—the question is: What is recovery? That's a matter of definition. The ISC strategy allowed for a significant reduction. The worst case scenario—and I mean very worst—was a 50-percent reduction in extant population before we came to equilibrium and started up.

I think the argument with that—all the witnesses said that the strategy was a good one. One side argued that it was too liberal, and the other said it was too conservative. We thought we were just right. That's "Three Bears" planning. I think it was a matter of preservation of option for the recovery plan and some definition of what recovery is.

Mr. VOLKMER. As I look at it, as we try to develop legislation—and part of that legislation has to be, as I see it, if we are going to develop any, whether or not there is sufficient habitat for the owl.

Mr. THOMAS. Yes, sir.

Mr. VOLKMER. But now I run into the same thing that I think the Forest Service said. Let's say we go down and say we'll basically adopt the HCA's as owl habitat and also set up a scientific community in order to review those and change them, etc., as necessary in order to preserve the owl, that, of course, would be subject to judicial review also as to whether or not it is sufficient to sustain, especially if in December or January the Fish and Wildlife Service comes up with a recovery plan that is quite different.

Mr. THOMAS. I would assume that's correct.

Mr. VOLKMER. Do you have any suggestion?

Mr. THOMAS. Either we let the situation play itself out—right now we have a judge's order that tells us to proceed with the development of and adopt an owl plan with the environmental impact

statement that goes along with it. On another track, the Fish and Wildlife Service is working on a recovery plan which will be completed some time after that, and they have to have an environmental impact statement on that one. So it appears that we have two trains on the same track at the moment.

Obviously I'm not a lawyer. You can talk to the lawyers. But it appeared to me that we're going to have to come down on the recovery plan sooner or later, but recovery has a tendency to be what you define it to be, as I read it.

Mr. VOLKMER. Earlier, Norman, in testimony we had here they said that now, after Judge Dwyer's decision we're looking at around 1.3 available for sale this year. Do you agree or disagree with that?

Mr. JOHNSON. I really haven't looked at the analysis of the implications of Judge Dwyer's decision for timber sales, so I can't answer what it is going to mean for next year's harvest and in the short run. I really do not know. I have not analyzed it.

Mr. VOLKMER. Jerry, how does it stand—Dr. Johnson said that we are going to continue to see clear-cutting as a result of everything that is going on. How do you see that?

Mr. FRANKLIN. That's one of the assumptions here. How does he put it? "Clearcutting will still predominate." If we were just to implement—this is in case we implemented the ISC strategy on top of the forest plans. I guess the major point that he's making is that the 50-11-40 rule can be met using traditional clearcutting practices. It would not necessarily require the Forest Service to shift from a clearcutting strategy to a strategy of structural retention, retaining, for example, a portion of the green trees.

I think that isn't to say that's what the agency would necessarily do, but—

Mr. VOLKMER. But it would still be available?

Mr. FRANKLIN. It would still be possible for them to do that. I can't really speak for the agency. From the standpoint of a number of objectives we have, it would probably work better if we begin to shift away from traditional clearcutting to some level of structural retention in the cut-over areas, given our multiple objectives, including cut activity between owl habitat.

Mr. VOLKMER. Dr. Gordon, do you have any comment on that?

Mr. GORDON. Not really, beyond what has been said. I think the reason we are faced with this uncertainty is that we haven't really in the past done our homework, and some of it takes a long, long time to do. I think one of the urgent tasks is to get on with that and to understand better how to predict what will happen as a result of our management activities on the land.

Mr. VOLKMER. The gentleman from Indiana.

Mr. JONTZ. Thank you, Mr. Chairman.

Thanks to all the witnesses for their contributions to this debate in so many different ways.

I am hoping that maybe I can learn something from you today, Dr. Thomas, and perhaps others on the panel, with regard to what sort of research is available at the present time about the ability of spotted owls to maintain populations in selectively logged areas. The impact of selected logging on owls is something that I'm not really very clear about, and it appears that some of these issues

have to be confronted that will deal with critical habitat. We're trying to speculate as to what sort of sales may occur in critical habitat. What can you tell us about the state of science in terms of our understanding of this issue?

Mr. THOMAS. The reason that it appears fuzzy to you is that it is fuzzy. I think there is very little time——

Mr. JONTZ. It means I'm seeing clearly, then?

Mr. THOMAS. I will try to help you see clearly that it is fuzzy. But the point is that we know of owls that exist outside of old growth. In fact, our committee did not talk about old growth as owl habitat, we talked about appropriate structure, which is most frequently old growth but sometimes not. We also know of some pairs of owls that exist in forests that have been cut in the past.

Now, whether one would call that selective harvest or high grading is besides the point; trees have, indeed, been selectively removed.

Usually owls found in such a situation have some pocket of a semblance of old growth that the nest site is in, but that gives us circumstantial evidence that we would look at and say that perhaps there is an opportunity that we could do that intentionally. If it happened accidentally, perhaps we could do it intentionally. But there is no research that I know of that sets out with an uneven aged or a single-tree selection harvest system and evaluates the impact on owls. Most of the evidence is circumstantial from finding owls in extant second growth.

Mr. JONTZ. So there is no research that has studied what happens to owl populations when you selectively log a given area?

Mr. THOMAS. Not if you start out with the idea of before- and after-type research. The information that exists is on owls that do presently exist in stands that were selectively logged in the past.

Mr. JONTZ. We can describe the situation, but in terms of understanding the processes we do not have any research that looks specifically at that question.

Mr. THOMAS. Correct.

Mr. JONTZ. What implications does that have for the Fish and Wildlife Service in terms of the designation of critical habitat? Or what sort of activities that they could approve under critical habitat?

I guess I don't want to ask you to interpret the law, but there are all sorts of representations being made about what may or may not be allowed under designation of critical habitat. I guess what I want to know is: Is there any scientific evidence—if timber cutting of this nature were allowed and the agency taken to court, to what evidence could they point to justify that in terms of its negligible impact on the owl?

Mr. THOMAS. We have to divide the habitat into its different types. If you're talking about nesting habitat, that's one thing. If you're talking about habitat in which the owls can feed, that's another. If you're talking about dispersal habitat, it is yet another.

Now, as I told you, there is no "start from scratch" research that takes it through. There is circumstantial evidence that indicates that owls are nesting and surviving in such habitat 60 years post treatment.

I think scientists would in general conclude—I would be pretty goosey about saying that would be fine in terms of nesting all-around habitat. I would feel a lot more comfortable with a 600-acre selected harvest and dispersal habitat than I would a clear cut. I think common sense would dictate it. Even though there is no hard-core research data, common sense would indicate that they would have a better chance to get through that and survive, sit there and feed a while, than they would in a clear cut.

Then, again, I know of no hard-core test yet that is done from scratch, but I think application of common sense—if I were calling the owl strategy shot and somebody asked if I would prefer selective harvest and dispersal habitat or clearcutting, I, and I think most scientists that are familiar with the situation, would select selective harvest.

Mr. JONTZ. Of course, but that doesn't really answer the question as to whether we have a scientific basis for allowing selective harvest. Is there ongoing research on this subject? If so, how long might it take before we had some evidence that would be helpful?

Mr. THOMAS. We're studying owls and dispersal, not directly aimed at that question. This is a fairly difficult question to address in the sense that the owls occupy very large home ranges. They also travel quite some distance in dispersal.

In the process, you make a 200-acre treatment. I don't know how long it takes an owl to fly through 200 acres, but probably not very long. Probably the treatments that we are putting in for feeding habitat and dispersal habitat would not be definitive. We would have to test rather large blocks.

But, again, the ISC strategy and all others is a combination of hard-core information, application of circumstantial evidence, and logic. But your question is: Has that been tested? The answer is no.

The next answer I would give you is that I think the unanimous opinion of biologists would be, if they had to choose between A and B, they would chose the one that wasn't clearcutting.

Mr. JONTZ. My time has expired, Mr. Chairman.

Mr. VOLKMER. The gentleman from Oregon.

Mr. SMITH. Thank you, Mr. Chairman.

Dr. Thomas, you listened to the debate this morning—or testimony, at least—about establishing certainty and about establishing sufficiency in the short term. I am going to ask your judgment on this question and how it might impact what you think would be the protection of the owl, but I would ask you if you believe that before these studies are completed—the EIS's, which you have indicated—we're going to be into next year and maybe more. In the meantime, we either let things run along as they have with the Dwyer decision in place, or Congress tries to act on a short-term basis. Do you support that kind of theory?

Mr. THOMAS. That we're going to have to operate on a short-term basis?

Mr. SMITH. Yes.

Mr. THOMAS. First, let me clarify one thing. I think I'm a pretty good wildlife biologist. I don't know how good a policy analyst I am, but certainly I think we're heading toward a solution where we have to deal with a short-term solution that gives us enough slack

to make long-term decisions. Essentially, everything is coming very close to impasse now.

Mr. SMITH. Do you think that includes insulation from some sort of court interference in the short term?

Mr. THOMAS. I don't know whether I would want to call what the courts do interference, but certainly history indicates that we are running into one court case after another. On the other hand, if you keep losing court cases, it makes you a little nervous that maybe we need to change the way we do things. I think that, if history is prologue, I would not expect that situation to change.

Mr. SMITH. What does that mean?

Mr. THOMAS. That means if you want stability or any certainty in the short term, you would probably have to have insulation from court action.

Mr. SMITH. Dr. Johnson, it is nice to see you here.

Mr. JOHNSON. It's nice to see you, Congressman.

Mr. SMITH. You know a great deal about Oregon forests. You've been through most of them through the Oregon plan and your tenure with the Governor's office. Tell me what you think would be the vitality of region 6 with 1 billion board feet annual cut.

Mr. JOHNSON. The economic vitality?

Mr. SMITH. Yes.

Mr. JOHNSON. Well, we think of the State in two parts. The Portland to Salem I-5 strip that's largely urban would feel it, but not in terms of devastation. That's where about two-thirds of the State's population is and about that much of the wealth.

On the other hand, the rural communities in Oregon, both in Douglas County and Lane County down in the middle of the State, and then especially in eastern Oregon with Burns and John Day, would be very hard hit because many of those communities are timber dependent and don't have many other options and would be very difficult to diversify.

So really what would happen is that the economic decline in our rural areas, which has been ongoing for a number of years, would be accelerated; whereas in the urban part of the State the projections we have would suggest that, while they might feel it, there would not be devastation.

Mr. SMITH. Any ideas? Have you looked at any of the numbers how it might impact the opportunity of the State of Oregon, itself, to meet its needs?

Mr. JOHNSON. What sort of needs were you thinking?

Mr. SMITH. The tax, roll-over impact, loss of jobs, the coffers of the State of Oregon, itself.

Mr. JOHNSON. Again, it would hit some communities. The impact would be very uneven. It would hit some communities very hard. I could dig out the numbers, especially from the work by Brian Giebert, Oregon State. Other parts of the State would not feel it. But certainly certain communities and certain municipalities would be very hard hit, indeed, out in the rural part of the State.

Mr. SMITH. Dr. Franklin, do you support clearcuts?

Mr. FRANKLIN. I'm not categorically opposed to clearcutting, Congressman. I think that it's a practice I'd like to see us retain in terms of having that as one option. I think that probably clearcut-

ting has been a practice that has been overused and perhaps abused.

Mr. SMITH. Do you mean its size or numbers or both?

Mr. FRANKLIN. Just simply the almost sole dependence that was placed on clearcutting over most of the last 30 years. I think part of that was because we really didn't realize what some of the impacts were going to be on other resource values, and partially because in a related sense we're very focused on wood fiber production. I think the forestry profession, thinking back to when I went to school, really did feel that what would be good for wood production would probably be good for the other resource values. It turns out to be a little more complicated than that.

I'm not opposed to it as a category. I think probably we should be shifting away from traditional clearcutting to other kinds of systems.

Mr. SMITH. Thank you.

Dr. Thomas, comment on clearcuts.

Mr. THOMAS. In general?

Mr. SMITH. I'm trying to get at this question. There are a lot of people who oppose clearcuts because they oppose clearcuts. You, as a forester and a scientist understand that they are used for forest practice and good silviculture in some cases. I'm trying to find out whether you oppose clearcuts and, if not, how you feel about clearcuts.

Mr. THOMAS. I think the contention of it is that we don't want to pretend that clearcutting is our only option. There are certainly cases in which clearcutting is the best silvicultural option. There are others where it is not. I think we've gotten ourselves in some degree of difficulty with lack of sensitivity to the fact that it may not always be the best treatment. Essentially these things in forestry are gradients—from a clearcut to seed tree cuts to shelter wood cuts to single tree or group selection. There is a whole spectrum of options there.

I am not opposed to clearcutting per se. In fact, if I were making prescriptions I would frequently prescribe clearcuts. On the other hand, I don't think I would have so consistently prescribed clearcuts as we have in the past.

Mr. VOLKMER. The gentleman from California.

Mr. HERGER. Thank you, Mr. Chairman,

I have a question that probably involves the expertise of both you, Dr. Thomas and Dr. Johnson—maybe just your opinion. In your view, do you feel that we need to create an ancient forest reserve in which there is no timber harvesting for, one, the preservation of ancient forests and, two, the protection of our spotted owls? Or do you feel that we have techniques available in which we can continue to maintain our historic levels of timber harvests while, at the same time, maintaining our ancient forests and the spotted owl? Again, I represent an area in northern California that is perhaps a little bit better growing timber area than some of the others, but we'd appreciate your comments.

Mr. THOMAS. Yes, I think we need an old-growth forest reserve system. I think there are reasons that we should do that that range from—one extreme is peoples' attraction to such things, all the way to the fact that we need some of those things in position total-

ly undisturbed until we know—and probably forever—just because they are systems that have evolved over millennia and have particular functions and plants and animals that probably exist there at least in greater abundance than elsewhere.

Yes, I think we need such a reserve system.

Do I think that we can manipulate those systems? Essentially Dr. Gordon, who is chairman of the committee on which both Dr. Franklin and I served—let me put my finger on the quote. The Society of American Foresters Committee concluded that “ecologically defined old-growth embodies wildlife habitat, along with scientific and aesthetic values, that merit study and preservation. Though the potential benefits of old growth are poorly defined and understood, a rational preservation policy that keeps an array of future options open is needed.”

We further went on to say that we don't possess the current knowledge to be able to manipulate those systems and hold them intact, though our conclusion was—and this was 9 years ago. It takes a while sometimes for things to come to the surface—that at least some of those stands should be reserved from entry of any kind.

I think we can mimic old-growth function in managed forests? I think potentially that's possible. However, I want you to keep in mind that we deal with owls now as if they were a single entity. To many people they were a surrogate for the old-growth issue in the first place. Even though they are a different question, they have been considered by some as an indicator species, that if they are OK then all of these other myriad species that exist in the forest would be OK, too. I would caution you strongly against that assumption.

If you let enough good scientists work long enough, they'll pull the habitat requirements out of the situation until they can produce that species. Whether or not that circumstance would then serve for all of the species that occupy that particular habitat is another question and one in which I am fairly certain the answer is no, it wouldn't.

I do think we need an old-growth preserve system, but I also think that there would probably be intermediate postures in that.

Now, in terms of the situation in northern California, I don't think you even want to get caught in calling that old-growth. It happens to be very high-production forest, very high-sight land. If you are in the redwood zone, the stump sprout sites are rich, the rainfall is heavy, the growing season is long. The northern California area is an area I don't even think you'd want to call old growth, but it produces very quickly the structure that will support owls. Whether it would support the full complex of the old-growth system, I doubt that, but I'm not certain, either.

Is that responsive to your question?

Mr. HERGER. That's responsive. And also, again, I'm asking whether or not—in your opinions, how much more set-aside do we need? It is my understanding—please correct me if I'm wrong—that of all the forests that we have available out there, basically only one-third of it is that outside of preserves and our national parks and wilderness areas, and we're harvesting on that.

My question is: How much more do we need, again putting into perspective that we do have, as we heard through our testimony this morning, live people and children and families out there who need the products that are being produced? Can we somehow work with what we have and still preserve again our old growth, our ancient forests, and our spotted owl? I guess I'm rewording that a little bit.

Mr. THOMAS. I think ultimately, Congressman, you folks are going to get to decide how much is enough. But there are more—

Mr. HERGER. But it is your expert opinion that we'll be basing this on.

Mr. THOMAS. I'm about to give it to you. I don't know how much is enough, either, because there are several questions that you have to consider in an ultimate decision. That means I think you're going to have a short-term resolution leading to some longer-term resolution. I don't think anybody can cough up your short-term solution quickly. It is going to take several years to do that.

But there is more to the question than how much old growth is enough. The owl is the precursor to that in the sense that it will have to make up a system. Just a total number of acres reserved is not the whole question. It needs to exist in a system. I think it will take some time to figure out what the options are, where the old growth is, and how it can be appropriately arranged in a system, perhaps reserving the most productive, the best classic examples, in some interconnected system, and then freeing up the rest, if you choose, or to reserve all of it if you choose. But those are societal decisions.

Science can help you determine what an appropriate system is and how much it would take to do that, and probably at several levels. But if you are talking about several thousand dollars per acre in standing timber, ultimately that's got to be a social decision, probably made by you folks, of what is enough. Science can help you, but we can't make the decision.

Mr. HERGER. My time is up. Eventually, I'd like to hear from Dr. Johnson on that if we move around again, and maybe even Dr. Franklin.

Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from Oregon.

Mr. KOPETSKI. Thank you, Mr. Chairman.

I have a question for both Dr. Johnson and Dr. Thomas, but Dr. Johnson first.

Do you think it makes sense scientifically—and you're scientists, so I want to underscore that word "scientifically"—to allow harvesting of timber in non-HCA areas, but in areas that are proposed critical habitat areas?

Mr. JOHNSON. I'm not really qualified to judge whether or not harvesting is compatible with protection of owl habitat, critical habitat. But the only thing I would add to this is that there are many ways to harvest timber, and we know of many ways. We have tended to rely in the Douglas-fir region of the national forest on just a few harvesting techniques such as clearcutting. If we move away from those techniques to retaining some forest structure, as Jerry Franklin can talk about, I think there probably is

agreement that is more hospitable to the owl. Whether it is hospitable enough, I cannot answer.

The one point I would make is that as we move away from traditional clearcutting techniques in such areas as critical habitat, there will be a definite impact on the assumed yield, and that it's not a matter of substituting one harvest technique for another with no impact.

In my testimony I suggested that moving to these newer forestry techniques and trying to retain some mature forest structure might impact the yield by a third, so it isn't without cost. It is undoubtedly more hospitable to the northern spotted owl. Whether it is enough, I'm not qualified to judge.

Mr. KOPETSKI. I think I'm going to end up asking everybody this question. Dr. Thomas, do you want to take a stab at it? That's a good beginning though.

Mr. THOMAS. Well, the part being—you have to depend on what your strategy is. If the IFC strategy was the strategy and the critical habitat designation took in dispersal habitat, then by definition activities within that dispersal habitat that met the 50-11-40 rule would be all right. But until you have a strategy in place you can't possibly evaluate what an appropriate treatment in critical habitat is. It is impossible unless you know what type of a strategy you're trying to adhere to.

Mr. KOPETSKI. What if it is just a transitory time of 1, 2, or 3 years?

Mr. THOMAS. Having just gone through the trial with Judge Dwyer, I was willing to sit there and testify that I didn't think that was very significant in that period of time. The judge disagreed with that.

Mr. KOPETSKI. He's a lawyer and you're a scientist.

Mr. THOMAS. That's right. And he's a lawyer and I'm a scientist, but I say things and people think they're mildly amusing; when he says things, they have a tendency to pay attention.

Mr. KOPETSKI. Well, we pay attention to you, as well, not just here but in Oregon.

Mr. THOMAS. Thank you.

Mr. KOPETSKI. Dr. Franklin, did you want to comment, as well, and Dr. Gordon?

Mr. FRANKLIN. I think we're probably pretty consistent on this. I think within boundary conditions obviously we feel that it is possible to do some harvesting within what you might call on the Fish and Wildlife Service side critical habitat, but which is, in fact, outside of the habitat conservation areas of the Thomas report.

I think we're quite consistent about that. It really, in many ways, is a model of the larger strategy we're talking about here, too, which involves both preservation and altered management strategies on the matrix lands, the commodity lands in which those preserved areas are embedded, and there are clear trade-offs between those.

If, in fact, we insist on traditional clearcutting and industrial forestry-type intensive activities on intervening lands, the preserves are going to have to be bigger in order to provide for all of those values. There are going to have to be more of them and they're going to have to be bigger. And if, in fact, you do less intensive

management and retain more of the structures and use longer rotations and that sort of thing in the intervening area, then you can probably do with fewer preserved acres.

But there isn't going to be any substitute for preserving a portion of the old-growth habitat and of the spotted owl habitat. There is no way that any manipulated stand can provide for all of the values that are provided for in an intact, old-growth stand. It's just the way it is. With our management, we can possibly protect some of those values, some of those elements, but there is a totality to the system that you can't get in a highly manipulated kind of system, even one with a lot of structural retention. You come back to that.

I do want to emphasize that if anyone thinks we know what those old-growth forests really are at this point—in fact, if anyone really thinks we know how a natural forest of any stage works—you're badly mistaken. We've just begun to scratch the surface.

If we could not have appreciated the importance of a fallen tree in the forest 20 years ago, I can tell you there are things just as obvious today that we don't see, we don't know. They are very likely down there in the soil or up there in the tree canopies.

I'm just sure that I'm going to look back in 2010—hopefully I'll be here to look back—and say, "Wow. Wasn't it incredible that we didn't understand how important the heterogeneity of the soil was, the spacial patterning in the soil, and we were just going out there homogenizing this whole thing like the patterns didn't matter at all?" or some other similar thing.

So that's a reason to be somewhat conservative in assuming that we can do things, that we can reproduce things. We obviously can't reproduce something which we do not understand in a really comprehensive way, and that's where we are. In fact, with natural forests, let along with old-growth forests, we're just scratching the surface.

Mr. KOPETSKI. That makes me think clearly we're testing whether only God can make a tree.

Mr. FRANKLIN. So far only God can make a forest anyway.

Mr. KOPETSKI. Mr. Chairman, can we allow Dr. Gordon the time?

Mr. VOLKMER. Fine.

Mr. GORDON. This won't take long. I just wanted to quote from the same 1984 report. I think it is directly to the point you raise. The paragraph is entitled "Can Old Growth be Managed?" It says:

"Through silviculture, foresters can grow big trees and grow them faster than nature unassisted, yet there is no evidence that old-growth conditions can be reproduced silviculturally. In fact, the question is essentially moot as it would take 200 years or more to find an answer.

"Old-growth management for the foreseeable future will be predicated on preservation of existing old-growth stands. Further, it does not appear that stands can be manipulated to enhance old-growth attributes or harvest timber and maintain their character. Existing evidence indicates that such efforts would be antithetical to maintaining the old-growth condition."

I think it is imperative that we use remaining old-growth on Federal lands to serve the thrust of that paragraph, that some be pre-

served so we can find out some of these things that Jerry was talking about.

I think it is also imperative to use some of it to answer that question. We have now entered the era when the whole biosphere is managed, whether we like to think of it that way or not, and so we need to know if we can recreate old-growth from harvest. I think some of it should be dedicated to that.

Because no forest management practice is ultimately predicated only on biology, my own personal view is that some of it will have to be sold simply to maintain the environment in which the old-growth can then exist.

We have seen from studies all over the world that preservation efforts that don't take local people into account—local people and their desires—fail, and they fail because the local people don't support them and they are closest to the resource.

I think those three things all will happen to the remaining old-growth on national forests.

Mr. KOPETSKI. Thank you.

Thank you, Mr. Chairman.

Mr. VOLKMER. Any other questions? The gentleman from Oregon.

Mr. SMITH. I'm listening intently, and it seems that the answer is out 200 years and we've got to act today. That's the unfortunate part of this whole discussion.

Let me ask you a direct question, if you want to comment on it. You heard the Bureau of Land Management this morning say that they would, in the short term, recommend an allowable cut of somewhere in the neighborhood of 700 to 800 million board feet. Dr. Thomas and Dr. Johnson are both familiar with the O&C. Almost all the timber that the BLM manages is in southern Oregon in the O&C forest. Let me ask you: If that number would come forward, would you folks trash it or would you support it in relation to the short-term impact on the owl?

Dr. Thomas.

Mr. THOMAS. I don't know. I'd have to see what they're going to do on the ground. That number means almost nothing short term. I'm sure that number—I don't know if you could sustain it, but I'm sure you could do it short term and not trash the owl, but it would depend on what they were going to do and how they were going to do it. That would be what I would have to examine. But a one-time number means very little. You have to talk about that number in a sustained basis, and you also have to talk about what you do to get that number. I can't relate to the number, Congressman, but I can relate—if somebody asks how the situation exists and how we are going to alter it, then I could answer the question, but that information is not at my disposal.

Mr. SMITH. Well, as you know, it is coming down from 1.1 billion roughly—you know all that number.

Mr. THOMAS. I'll put it this way. If you did it wrong, it could be devastating. If you did it with some plan in mind that was a good plan, I doubt that it would have any particular short-term detrimental effect. It would remove options, but I think that could be done in contingent with some long-term plan. But I'd have to see how they planned to do it.

Mr. SMITH. Dr. Johnson.

Mr. JOHNSON. Following up on Dr. Thomas' comments, he's absolutely right that in the short term you have to look at exactly where. In the longer term, whether or not the Bureau of Land Management can sustain 750 million board feet, I do not know.

Mr. SMITH. I'm not asking you that, Norm. I'm trying to get at the short-term situation right now, and I'm trying to get at the question of this number, recognizing that we'll have more information 3 years from now than we have now which will impact this whole thing long term. I'm not suggesting a long-term correction; I'm suggesting a short-term correction that would get us by this impasse that we all agree we are in.

Mr. JOHNSON. Following up Dr. Thomas, the key there is where they put the harvest. There is certainly that amount of volume on their lands that they could harvest that is not necessarily absolutely critical to maintenance of the spotted owl. I don't know where they are going to put it, and really that is the key—and also the harvest technique, but especially where amongst their districts it would go and within the district.

So it is not—what I'm saying here—and I don't mean to be evasive—is that out of the box I don't think you could say it is impossible. It would really depend on how it was applied and how it was done.

Mr. SMITH. Do any of you other gentlemen wish to comment? Dr. Gordon. Dr. Franklin.

Mr. GORDON. I think I would support everything that is said. I think a short-term solution demands three numbers, at least: An owl acreage habitat number; an old growth, if it is in addition to the owl number; a number for the cut that is probably going to be determined more by political acceptability than anything else in the first instance; and then a map that connects those. I think until we have those there won't be a short-term solution.

The second thing I would say is that I think that would be the worst possible model for a long-term solution. So if we do that in the short term, it has to be done with the idea that something else will be done subsequently.

Mr. SMITH. Thank you.

Dr. Franklin.

Mr. FRANKLIN. I think I'd approach it with a little skepticism. The Bureau has been relentlessly optimistic about what it can do in the way of wood production on its lands, and it is dealing with a very difficult situation in terms of both ownership and the physical nature of the sites. You are aware that most of the ownership is a checkerboard ownership where they hold the Federal part of the checkerboard, and we know that part of the checkerboard has become more and more the part that has to carry all of the non-timber values because of heavy cutting on the intervening lands.

We also know that a lot of the Bureau's land—some are very productive, but they have an awful lot of what you might call "marginal lands," lands that are extraordinarily difficult to regenerate following traditional clearcutting practices.

And, in fact, there was a major research program, FIR, which was designed to do nothing except make it possible for those to remain in the timber base or to go back into the timber base.

And so we have a very difficult situation which has had a tremendous stress on it, even under past constraints. I think I would look very carefully at the reality of those figures.

Mr. SMITH. Then give me some real figures.

Mr. FRANKLIN. I can't give you any real figures. I don't have the data base to do that with. I'm just suggesting a point of view when you look at their figures.

Mr. JOHNSON. Congressman, I think the worry that you are hearing expressed here is that the timber volume may be there for 3 years, but then where would that leave BLM lands?

Mr. SMITH. I wanted to put it in parameters around that because I'm not asking you to give me the unknown. I'm trying to get from you in the short term—which is what we're dealing with now—what your thoughts are, assuming it's leading nowhere. As Dr. Gordon said, let's assume it is leading nowhere, that it in the short term it will lead us nowhere.

Mr. JOHNSON. I've got to tell you that all my forestry training makes it hard for me to take that view, Congressman Smith.

Mr. SMITH. I can see you folks are just as organized as we are up here in your views.

Mr. JOHNSON. I'm not sure about that, but the feeling that some of us that have been in this business for a while have is that the hope is that 3, 4, or 5 years from now we won't be in a situation where we kick ourselves for not thinking longer and really trying to understand, based on what we know now, what harvest levels for a few years might mean. That's sort of what you're getting from me, even though I may realize, like I tell my students, you're not answering my question.

Mr. THOMAS. Mr. Smith, one of the things we need to recognize is that in a lot of ways we are running out the string. We are now down to the point where we make specific timber sales that have a specific impact. For a number of years we were just moving up the hill and what you did on individual sales didn't have that much effect. But if you fly over the coast range now or over the BLM checkerboards and you look down, you recognize that exactly where you do things now has a very dramatic effect.

I wasn't trying to weasel on the question; I'm merely saying in the past to ask that question as you asked it, I probably would have answered that yes, it's a problem, or no, it's not. But now, given the circumstances that exist on the landscape, it gets to be a very specific question exactly what is going to happen and where and what the circumstances are. That's the reason I couldn't respond fully.

Mr. VOLKMER. The gentleman from Indiana.

Mr. JONTZ. Thank you, Mr. Chairman.

Following up on the gentleman from Oregon's question, is part of the problem that the BLM owns a relatively high portion of the low-elevation old growth that is left, and that maintaining options with regard to lower elevation areas is a concern? Dr. Franklin.

Mr. FRANKLIN. Norm can probably respond to this well, too, but it isn't so much that they are on lower elevation, although they have a lot of relatively low elevation, it is a fact that they have ownership in a checkerboard region in which many of the alternate sections are owned by private industry. They have the only old

growth left in the entire landscape. Some of it is low elevation, some of it is high elevation.

Mr. JONTZ. Is my understanding correct that if you look at the spectrum of old growth that's left that the low elevation areas are in particularly short supply?

Mr. FRANKLIN. Low elevation areas are very much in short supply, but not just in southwestern Oregon.

Mr. JONTZ. But from a standpoint of maintaining forests as ecological systems, one of the principles that one would want to follow to protect biological diversity, to see the likelihood of the system's sustenance being increased, would be to have the diversity of elevations represented. Is that correct?

Mr. FRANKLIN. It is very clear that is correct. All we know about diversity in our forests is that it is the low elevation and more productive forests that have higher levels of diversity. This is why the reliance on wilderness areas and national parks as primary sites for old-growth preservation doesn't work very well, because what is beautiful and aesthetically inspirational turns out not to be particularly high in diversity, and so this is why we have skewed our preservation activities, of course, to less productive parts of the landscape. That seemed intelligent.

But it turns out when you really become concerned about issues of biological diversity and sustainability, we are off in the wrong part of the landscape.

Mr. JONTZ. Let me ask this: One of the challenges that we face in writing this legislation is that most of the discussion and most of the existing activity out there relates to sustaining owls, and we know very clearly that our task with this legislation is to sustain forests as ecological systems.

You have made the point that elevation is extraordinarily important in terms of maintaining biological diversity. What are some of the things that we should keep in mind when we think about sustaining forests as ecological systems that would be important for us to distinguish or to understand when we look at owls as compared to forests? Does anyone want to tackle that one?

For instance, owls fly. They migrate relatively quickly. Other animals do not migrate so quickly. Plants migrate very slowly. Is that a concern that we ought to have when we look at the ability of a system to respond to changes in climate? And does that have implications for connectivity?

Mr. THOMAS. I think the germane principles of conservation biology that are inherent in the IFC report addresses that, but it addressed it for owls. One is sizing—How big, bigger is better; fragmentation—all things considered, less edge and less fragmentation is better in terms of fulfilling the role of old growth. The next question is: How close together? The next question is: How connected? I think those are the basic questions that you have to address.

Now, we addressed it for owls, and they fly, as you said. But this gets to be tricky because if you've got one 10-acre stand of low-elevation old growth somewhere, even it is was poorly connected to anything else and it is really too small and that's all there is, it becomes highly significant.

On the other hand, if you had to take a choice between a 50-acre patch and a 500-acre patch you'd pick 500 because of the integrity

and the ability of that to sustain itself and the populations that would be retained within it.

I think the real question is going to come down to connectivity. Now, with the owl we looked at the connectivity question and looked at the reserves, stream-side protection zones, and other things reserved—the rotation links, etc.—and we came to the conclusion we saw no reason to imply corridors. One, they don't exist in nature. You'd have to create them except on those water courses.

When you get to smaller mammals, smaller animals, vertebrates, invertebrates, which nobody has even thought about yet, I think your big question is going to revolve around connectivity.

Mr. JONTZ. In other words, the way in which we link the core areas would be different to be concerned about animals that aren't as mobile as owls? Mice, rodents, vertebrates—

Mr. THOMAS. Obviously a bird that can fly is different from a salamander that creeps.

Mr. JONTZ. Right.

Mr. THOMAS. My personal opinion is that I don't think corridors are a great idea. I don't think there is good biological reason and good scientific backup on corridors. I think if an intervening matrix with appropriate minireserves that are there—the 50-11-40 rule is an attempt to deal with that sort of question—I would feel much better about a matrix that would allow movement between conservation areas than I would corridors.

Mr. JONTZ. But the 50-11-40 rule is designed for owls. It is not necessarily designed for anything else, is it?

Mr. THOMAS. No, but I'm not so sure that it wouldn't work for other things. I don't know that. That's something we would have to look at, keeping in mind if you have an 80-year rotation, for 40 years out of that 80-year rotation you are tree covered and it gets further along and there are connectors in between. It wasn't designed for that, and I'm not so sure it might not work that way. I would be cautious about immediate institution of corridors for which I don't think there is good scientific basis, but that's my opinion.

Mr. JONTZ. One of the tough questions we are going to face is how you draw the interim protective areas to maintain options, and you have said that you don't personally like corridors but you like conductivity, but then you said there really isn't any research to support the idea that 50-11-40 applies to anything other than owls, so—

Mr. THOMAS. Nor is there any research, Congressman, to support corridors.

Mr. JONTZ. So the question is: How do we maintain our options? We know that you have to do something to be concerned about how animals get from point A to point B. We don't—obviously intuitively we know they don't all fly like owls do, so how—you don't like corridors, but how do you—what scientific basis do we have for making some decisions about this, because we face this decision very quickly?

Mr. THOMAS. In real life you really don't have those options at your disposal. You're making the assumption that corridors exist out there. In most cases you just have to draw lines on the map

and say "corridor." There are very few areas between habitat conservation areas that you could draw two lines and say there's a corridor of mature, old-growth forest in between. If you had such an option, it might be well to preserve it in the short term.

Mr. JONTZ. If you have the option it would be well to preserve it in the short term?

Mr. THOMAS. I think that would certainly be the fail-safe mechanism, but I think—I spent a lot of days and hours staring at maps and flying in airplanes. There are not very many places where you're going to find that option available to you. You can create a corridor over time, but not many of them exist now.

Mr. JONTZ. Dr. Franklin, do you have any advice for the committee on conductivity in terms of how we design interim protection areas to see that we maintain the greatest number of options for the scientific committee that we might set up to give us some prescription of how we view the landscape to sustain forests?

Mr. FRANKLIN. I have a little bit different spin on it than Jack. I sort of have tried to take a comprehensive view of what I think we need to do in order to assure maintenance of diversity and sustainability in terms of the manipulated lands.

I think it is very clear that the large habitat conservation areas, while they are very suited to some critters like owls that have the ability to disperse, there is a tremendous number of organisms out there that can't respond to that coarse-textured system of preserved areas, and so we are going to be needing to look for much more closely-spaced smaller and intermediate-sized reserves as well.

I think you could sort of visualize a landscape where you kind of use the riparian environments, the stream and river environments, as the basic skeleton for a well-distributed series of reserves that include both large areas and small areas, and then——

Mr. JONTZ. You're avoiding using the word "corridors," but riparian areas are corridors.

Mr. FRANKLIN. The riparian area is, in a sense, a corridor. It does provide some connectivity, but even more importantly it also protects that very critical part of the landscape which is the stream and riverscape part of the landscape.

And then, like Jack, I tend to feel that corridors beyond the riparian habitats are not very well proven at all, and so a better thing than investing a lot of resource in additional corridors outside of the riparian area is probably to provide for a less hostile matrix or commodity landscape, and you do that through structural retention on harvested areas; you do it with rules like the 50-11-40 rule.

But, in effect, if you think of the preserves as islands, what you are trying to do is make the sea less shallow or less hostile between these islands, and you do that more readily by retaining some of the structure than by just clearcutting it and leaving a few corridors here and there.

I think what you have to work toward is a very comprehensive view of the landscape we're trying to create, and it involves both a well-designed system of preserves of various types and sizes, and it includes altered stewardship of the commodity lands, the lands that we are managing for timber production.

In those areas, what you are trying to do is to maintain some of the structure, restore it where you haven't got it, and provide connectivity between the reserved portions of your landscape. That's what you are trying to do.

You don't want to just deal with owls; you want to, in fact, deal with all of those elements of diversity out there, including the fish and the invertebrates and the other kinds of organisms, as well. A strategy just for owls isn't going to work for a lot of other elements of diversity.

Mr. JONTZ. Thank you. Mr. Chairman, I have one more question but my time has expired.

Mr. VOLKMER. Go ahead and do your question.

Mr. JONTZ. Dr. Gordon, you were quoting from the SAF position on old growth; is that correct?

Mr. GORDON. That's correct. That came out in 1984.

Mr. JONTZ. Let me ask you and Dr. Franklin this question. If I heard what you said correctly so far as SAF's position goes, you are saying that old growth, per se, is not improved by silvicultural practices? If your purpose is to sustain healthy old growth by itself, if that's your objective, silvicultural practices don't improve it?

Mr. GORDON. We could find no evidence for that in 1982 when we actually did the report. I don't know of any since. Experimentation of whatever kind, even the finding out of whatever organisms live in it, is very recent on old growth. So it is odd, a surprising thing that we found that, but that's what we found.

Mr. JONTZ. To me it sort of makes sense, based on what Dr. Franklin said, that we really don't have a very great comprehension of how these systems work, and you start taking a piece out here and taking a piece out there and you find out later on that maybe you were having an impact you didn't realize, I guess that, to me, seems logical.

Let me go one step further. Forests as ecological systems have evolved with fire, wind, disease, insects. Those are all part of an ecological system; is that correct, Dr. Franklin and everyone?

Mr. FRANKLIN. That's correct.

Mr. JONTZ. So these systems have found some way over time to deal with the impacts of these naturally occurring phenomena—some of them catastrophic phenomena like fire and wind? So would you say that one measure of the health of a forest as an ecological system is its ability to respond over time to these occurrences—fire, insects, disease, wind—that you would expect a healthy ecological system over time to be able to respond to these sorts of events, that it would be a measure of its health? Is that a fair way of putting it? I don't want to put words in your mouth.

Mr. FRANKLIN. Ecologists have two words for that: One is resistance, and the other is resilience. Basically these old-growth systems tend to have both high levels of resistance and of resilience—an ability to both resist a disturbance and to recover rapidly following that disturbance.

Mr. JONTZ. So there may be some reason to cut trees, to cut timber in old-growth areas, but the idea that we need to do that to maintain the health of those forests or that we need to do that to rehabilitate them after fire or insects, disease—we may be able to

justify cutting trees for some purpose, but you really couldn't justify doing it to maintain the health of the system?

Mr. FRANKLIN. If you define the health of a system in terms of its ability to do certain kinds of things, such as conserve soil, maintain nutrients, capture the Sun's energy through photosynthesis, and other kinds of work, obviously old-growth forests don't need a whole lot of manipulation to have those functions improved upon. We can often take something out of them and still maintain those functions, but it is kind of like foresters who used to talk about how they could improve water quality through forestry practices. The truth was that we couldn't improve on the quality of the water 99 times out of 100; what we could possibly do is take some timber out without significantly degrading the water. It is kind of similar to that.

In terms of productivity, in terms of nutrient cycling, and in terms of erosion, you'd be hard put to improve in the average old growth. Now, there are old-growth stands that are pretty—should I use the word "decadent?" They've lost some of that capability as a result of one occurrence or another, but that's not the normal situation. So they do their jobs very well.

From our standpoint as human beings, one job they don't do very well is add a lot more board feet of timber.

Mr. JONTZ. I understand the distinction.

Mr. FRANKLIN. They just basically sit there with the board feet they've got.

Mr. JONTZ. But this idea that we need to cut trees to sustain the health of forests—

Mr. FRANKLIN. That's not generally a valid point of view. The forests are quite capable of sustaining themselves.

Mr. JONTZ. And, in fact, they have evolved to be able to—they have evolved responding to fire and insects and disease. We don't understand how they do it, but we know that what they are today is a result of them having responded to fire, insects, disease, and wind over time. Is that correct?

Mr. GORDON. I would add something on. It depends quite a bit on the size of the system you are defining as maintaining its own health. If you say we're going to let fire and insects be in old-growth timber because they evolved with fire and insects, the fire and insects may not know just where they are supposed to stay, so they may move out somewhere else and cause a big problem with other things that we have established at successional stages.

Mr. JONTZ. I appreciate that and, in fact, my legislation addresses that. Those are decisions that are policy decisions that have to be made. I just want to ask from the standpoint of a forest ecologist whether it was necessary to engage in silvicultural activities to sustain the health of the forest in that way, and I think you pretty clearly—

Mr. GORDON. I think we've answered that. I think there is one caveat that I need to put in, at least, as a responsible researcher, and that is we don't have a very good definition of forest health or ecosystem health. I think one needs to be developed if that is to be the criteria by which management is judged. I think we need to qualify our answer pretty carefully.

Mr. JONTZ. That's in that research recommendation, isn't it?

Mr. GORDON. Yes.

Mr. JONTZ. That's what I thought.

Mr. FRANKLIN. Incidentally, that's why I tried to begin to define it when I started out in terms of an ability, for example, to retain nutrients and prevent soil erosion and capture the Sun's energy through photosynthesis. Those to me are measures of forest ecosystem health.

I'd also like to indicate that my comments here applied specifically to the old-growth Douglas-fir forests on the west side which are extraordinarily healthy systems, quite unlike a lot of the east side forests. No one understands why, but the forests on the west side simply do not have the problem with epidemic insect outbreaks, for example. No one can tell you why that is.

One final comment about this is that I always chuckle when foresters talk about the need to get into these old-growth Douglas-fir forests because we're going to lose the Douglas-fir. Conceivably that would happen, but in most of our old-growth forests it is going to be another 500 to 700 years before we lose all of the old-growth Douglas-fir from those forests, so we have a little bit of time with regard to that particular concern.

Mr. JONTZ. I appreciate your responses.

I had thought maybe it would be best not to get into as lengthy a discussion as we might on east side forests today, and I'm not going to at this point. I think that the views of Dr. Franklin and Dr. Thomas on that matter are something that we have discussed with them before. Let me put it that way. I think I'll just let it go at that point.

Mr. VOLKMER. The gentleman from Washington.

Mr. MORRISON. Thank you, Mr. Chairman.

Gentlemen, one of the intriguing concepts put forward to those of us in the Northwest delegation has been the concept of, in a couple of selected forests where you do have very good growth ratios, of just doubling the rotation time, going to a 200-year forest, and doing away with all these other barriers of areas that are set aside for certain purposes.

I'd like to have your comments on that concept.

Dr. Franklin, perhaps you could go first since I know you've addressed this.

Mr. FRANKLIN. I think the concept of long rotations from an ecological point of view is a very creative one because a lot of the ecological problems that we are encountering in our forests have to do with the use of short rotations. Some of them are very obvious. If you are using a 50-year rotation as opposed to a 200-year rotation, then you have four times as much area in a recently clear-cut state in any given time.

The short rotations do create significant ecological problems; however, one major concern with instituting such a thing has to do with the road systems and the transportation network and the methods that you would use to log, because not only is clearcutting a serious concern from the standpoint of many ecological values and short rotations a concern, but the road systems are absolutely critical in terms of potential damage, for example to the riparian, the stream systems.

The issue of logging systems, of road systems, would be absolutely critical in terms of opening up a lot of the landscape that is currently closed. And if, in fact, the only way we could open a lot of those areas that had been closed to logging would be to use dense, permanent road systems, then I think we have to look very hard at this alternative.

Mr. MORRISON. I'm convinced that before we get to that 200-year rotation that we're going to have some new systems that when you cut a tree it goes straight up instead of falling on a truck somewhere.

Other concepts on this concept? Also, this is one that we would not like to foreclose when we end up with legislative options in front of us as we look to the future. Other comments?

Mr. THOMAS. Yes. I have one. Look out. I'm betting on things that nobody has ever done before. If we had a 200-year rotation that was established at the time of the constitutional convention, we would not be in the throes of harvesting those trees.

Mr. MORRISON. We're good at shoving things off in the future here, as we know.

Mr. THOMAS. The point is to be careful between what we know and what we think we know and what we surmise about. I haven't seen any 200-year rotations. Those things are subject to decision-making. War comes along or depression comes along or population growth continues where we double the population of the United States every 50 years. What are the real probabilities of instituting such a course of action and seeing it culminate in 200-year-old trees? I suspect it is well less than 100 percent.

But what I'm warning about is the quick fix of saying, "Hey, no problem. We'll throw the Mount Hood National Forest into 200-year rotation and that will take care of everything." I seriously doubt that.

Mr. MORRISON. Norm, you were poised at the microphone?

Mr. JOHNSON. Just to add that I think in approaching this I wouldn't approach it in terms of the rotation age so much as what sort of forest age-class structure we want through time and what sort of products we want and where we are now. If we impose a 200-year rotation on the Siuslaw National Forest, there probably wouldn't be any harvest at all. They don't have any trees 200 years of age right now. If, on the other hand, we wanted to move that forest to an older age-class structure through time, that might be possible.

What happens is that actually, given the unequal age-class distribution that we currently have, if we wanted to lengthen rotation or essentially have half of our forest over 100 years, we'd use a variety of rotation ages to get there.

It is true that right now in the national forests of western Oregon, at least, the vast preponderance of the lands we managed at a rotation age of less than 100 years. So we are setting up through time so we will have forests that have the managed portion less than 100 and an unmanaged portion without fire older than 200 and a tremendous age-class gap there. That's something to worry about, but I'd worry about it more in terms of defining what age-class structure we wanted over time and letting the rotation ages fall out.

Mr. MORRISON. My time is expiring and the chairman has been very generous.

Let me start a topic that perhaps will get carried over to my colleague from Washington, Mrs. Unsoeld.

In our backroom sessions thus far in trying to search for legislative answers, one of the difficult issues has been what sort of instructions we issue to some sort of scientific group on the long-term approach to management.

I think we're probably a little closer to the interim management idea and what we have to achieve in that package, but what sort of instructions do you issue as you reach out in that 3- to 5-year period of time and beyond and let this just be a beginning? You folks are going to have to help us figure this out. If we could take a minute or two now, we'd certainly appreciate it.

Mr. JOHNSON. I'll leave it to my colleagues to talk about some of the characteristics of an old-growth system that we might want to do, but there are a couple of points.

First is we do have to change the kind of questions we are asking about what we want from our forests. There has been a tremendous focus on the allowable sale quantity and finding the maximum level compatible with other uses. Frankly, those levels, as I pointed out in my write-up here, are very difficult to implement. I think we've got to change the kind of questions that we ask in terms of finding sustainable levels and levels of harvest with some confidence that it can be delivered. That's certainly part of it.

Second, I would say that we've got to find some way to simplify the management prescriptions for the national forest. Right now—and I've been part of this—we have a crazy quilt of allocations spread across the land. There have to be a few thematic management ideas on the part of the lands where timber will be harvested that can be implemented in a broad scale.

Third, I would suggest that group look fundamentally at the institution, itself—the Forest Service—and see if the way it is now organized is compatible with delivering what you want. By that I mean I have felt one of the reluctances of the national forest to use a partial cutting is their difficulty in delivering that—that is, in actually developing the management controls to do that.

We're talking, with Dr. Franklin's ideas on new forestry and other ideas of selective management, about a very highly-skilled workforce involved in forest management. Now, all the great dreams we have sitting here at this table go down the drain unless we find a way to actually develop that workforce and the management controls so that partial cutting will not degrade into high grading as it has in the past, and that, in fact, we are able to, as Dr. Franklin has suggested, retain green trees without them blowing over. There is an enormous—we're really talking about a much more skilled workforce.

In summary—and I know this is pretty long winded, but I'm sorry—I'd look really carefully at changing the questions we asked about the allowable sale quantity and the way it is phrased, and I would look very strongly into exactly how we implement this and deal with it and, develop some themes for the management of the lands rather than all these different allocations we have.

Mr. MORRISON. Are there others that want to embellish on that? Dr. Gordon.

Mr. GORDON. I tried to note down a few points before I came, and they may have addressed some things that should be considered in the long-term plan. I agree with everything Norm said. I think the question of what sort of mosaic you want on the land is embedded in a larger question, and I used to talk about this when I lived in Oregon, and that: Is what do we want to do for a living? Until there is some determination that there is a future that has in it growing and processing wood, for example, as a part of it, it will be difficult to make a determination about what sort of mosaic of forests we want on the land.

But, given that the question is answered affirmatively somehow, I think one of the most important ingredients is to learn how to ensure an increased supply of wood in the future in a sustainable framework. That takes a long time to do. It takes time to grow and test forests as crops of wood.

The second one is to do the things necessary to make ecosystem health the highest priority on national forest system lands—in other words, to replace the multiple-use mandate with an ecosystem health mandate. That means then subordinating any single use notions to that overarching one, and that includes preservation and recreation as well as timber production. Then we can move to create a mosaic of healthy, successional types of the kind that Dr. Franklin describes.

The third one involves the forward treatment of old growth after the interim period. I've already said what I thought about that in answer to Mr. Smith's question.

Fourth, I think the long-term solution has to provide for letting professionals—the people who spend their lives trying to understand wildlife, water, forests, ecosystems—manage the land. That will involve sweeping away the mosaic of restrictions that Norm described. I think that's ultimately the only solution to having a sensitively-managed landscape.

Mr. MORRISON. Thank you. I appreciate the reply and the response and challenge the four of you at the table, plus Mr. Beuter, to get your pencils sharp, because I think you're going to have to help us as we wind on through this to get on paper this prescription for the long-term instructions to a team to look at what we do.

Thank you, Mr. Chairman. It has been very helpful.

Mr. VOLKMER. The gentleman from Oregon.

Mr. KOPERSKI. Thank you, Mr. Chairman.

I was struck by something Dr. Thomas said earlier and what Dr. Gordon was just speaking of when he talked about changing to an ecosystem health concept from a multiple-use concept. With that in mind, isn't there another possible problematic concept, and that's the Endangered Species Act, itself? Do you envision a day when a recovery plan for one creature may conflict with that of another creature?

Mr. THOMAS. That's a classic question. What happens when a rare and threatened bird eats a rare and threatened butterfly? I'll answer the question separately.

I think that what we have seen as we have evolved from rather small-scale considerations under the Endangered Species Act to the

spotted owl, which is a landscape question from British Columbia to central California—and probably the California owl follows, and the Mexican owl after that—is that essentially I don't know whether we can help you with that, but I think ultimately we have to understand what the Endangered Species Act was, or what I perceive it to be. It was the first well-intentioned idea of maintenance of biodiversity.

Scientists' concepts have evolved beyond that now. We cannot continue to press species to the brink and then go to incredible rescue efforts to bring them back. We'd be far brighter not to push them there in the first place.

I think we could probably address a large number of the questions to deal with threatened and endangered species through a broadened ecosystem approach. We would still need the Endangered Species Act to deal with the exceptions—those things that are very, very specific, and what it was designed, in my opinion, to do first off. I think we'll see an evolution in the Endangered Species Act. I don't think we're going to back off from it, and I hope that we don't, but I see a way to do this. It is far less expensive in the long term to try to think in a larger context and to head these questions off than to blunder into them one right after the other.

Essentially we can't sustain that very long. Patience—public patience, legislative patience—cost, we're going to snap the willingness to pursue a noble idea that should be pursued, but I don't think we can pursue it one species at a time very much longer.

Mr. KOPETSKI. I see some heads nodding there, and I want to go to the other gentlemen, as well. So it is really going beyond the act as you see it today?

Mr. THOMAS. Yes.

Mr. KOPETSKI. And it is taking the next step, which—but isn't it, in a sense, going back to a concept of multiple-use—what I think was the original intent of the concept of multiple-use of a forestry system?

Mr. THOMAS. Those are probably—

Mr. KOPETSKI. How much difference do you see in that?

Mr. THOMAS. Not much. I think multiple-use—one of the gimmicks in multiple-use is one of the oldest context arguments in forest policy. It is great, but nobody agrees what it is. Essentially what we have operated on for a long time is a sustenance—we carry our baggage from one planning cycle to the next planning cycle. That's understandable. Those come out of social contracts. Communities are built around them. Investments are made around them. Lives are planned around them. You don't just walk, but you carry that from one time to the next time.

And so multiple-use was relatively well-defined as meeting the ASQ and then maybe some of these other things, too. I think the only problem with multiple-use is that the multiple-uses were so incredibly unbalanced. The concept, in my mind, is quite sound. In fact, I hardly visualize how one could manage public land without such a concept, but I think it will require more balance and I think that's what we are seeing now.

Mr. KOPETSKI. Do you think the day will come when the Congress will have to change—if not change the act, then pass a law

that allows superseding the Endangered Species Act to allow for different recovery plans to be as compatible as possible?

Mr. THOMAS. I don't know that you have to pass a law to do that. I think ultimately you strive to produce recovery plans to be as compatible as possible. For example, the ISC plan, while it was not designed as a recovery plan, fit that. It was designed to be as compatible as possible. To my great interest, my committee and I have now gone from being environmental crazies to flags of the timber industry, so it depends on where one stands along that spectrum. But essentially you are always looking for some degree of balance.

John pointed out that one of the—anybody that deals in conservation questions on a worldwide basis understands thoroughly that any conservation strategy that is incompatible with social demands can't stand. That has happened all over the world. If you do something that is so irrational that the people that are involved in it—the local people and people of the Nation—cannot support it, it will fail, so you are constantly searching for that line of some balance.

Mr. KOPETSKI. That's an excellent comment that I think everybody in this committee and the Congress needs to keep in mind.

Did others want to take a quick 30 seconds or 1 minute to comment?

Mr. FRANKLIN. I just second Jack. It's obvious that a species-by-species approach is going to kill us. We can't deal with things on that kind of a basis, even if we had complete knowledge, which we don't have. We have to approach it in a much more comprehensive way—one that thinks in terms of systems rather than individual species.

As a part of that, it is really clear that if we are really concerned about biological diversity, preservation is only one of the tools, and that the larger job in maintaining diversity in the world is going to be integrating the objective of maintaining species into management of lands that are being used for various purposes by human beings—wood, food, grazing, etc. It is what Jim Brown, University of New Mexico biologist, has called the "seminatural matrix." He feels that biologists and ecologists—particularly the academic stripe—have been focused for so long on individual species and on preservation as the strategy for maintaining them that they have lost site of the fact most diversity cannot be dealt with that way.

We have a real challenge, which is to move from a species to a system perspective, and to move from a focus just on preservation to one that includes both stewardship and preservation. We just don't have any other choice if we are committed as a human species or as a nation to maintenance of biological diversity.

One of the things that I have suggested that this body could do which would help in the debate is ask the National Academy of Sciences to do a study and assess how well the act has been achieving its objectives and where it has not achieved them and what changes might need to be made. I think that could help a lot if you really want some objective analysis when the smoke and fire starts during the reauthorization process.

But we are going to have to change our approach, and it is going to be tough for the academics. It is going to be tough for the conservation-oriented people to deal with some of this reality.

Mr. KOPETSKI. Thank you, Mr. Chairman.

Mr. VOLKMER. I would like to first thank you. I suppose you all have received our letter of May 22. That's a little extra work for you, as you said before, and you are now a team. I appreciate that.

Dr. Gordon, when we talk about eliminating multiple-use and going to an ecosystem mandate are we just talking about public lands?

Mr. GORDON. I was talking specifically about national forest lands in making that comment. I want to take this opportunity to agree with Jack. To some degree it is doubletalk. It is to some degree saying that the original intent of multiple-use, insofar as there was one, was ecosystem management. The difference is that we have now, in addition to the one that Jack mentioned that we didn't really place equal emphasis on the uses, is that we have developed advocates for each resource. What happens to the integrated whole tends to be the sum of the proceedings among the advocates, which isn't necessarily optimum for the system as a whole, so that's what I meant to say. I was talking about the National Forest System.

Mr. VOLKMER. I'm beginning to just sit here and listen, and I hear things I—preserving the ecosystem? Are we talking about preserving the ecosystem of the whole country?

Mr. THOMAS. Yes, sir. We're talking—

Mr. VOLKMER. You're not going to preserve much if you're just going to do the national forests.

Mr. THOMAS. No. We didn't say—

Mr. VOLKMER. Put a lot of effort on for what purpose?

Mr. THOMAS. I don't think we intended to leave you with that impression about preserving ecosystems in the sense that they are not entered. They are in a preservation state. We are talking about being able to sustain some systems in their original state. That's the preserve system. We're also trying to learn how to deal—all things that are growing plants and animals out there are involved in ecosystems.

Mr. VOLKMER. That's correct. It goes on all over.

Mr. THOMAS. That's right.

Mr. VOLKMER. In New York City you've got an ecosystem.

Mr. THOMAS. That's right. I used to work on urban wildlife. Believe me, you have a system right there on the concrete.

Mr. VOLKMER. Right.

Mr. THOMAS. But we're talking about—in the end, we're talking about the preservation of the ability of the Earth to produce biomass that sustains every creature on the face of the Earth. Some of that is going to be sustained to produce wheat. Some of it is going to be sustained for production forestry. And some of it is just going to sit there doing its thing until—we hope for some period of time. But we also need to understand what we are facing. We are going to double the population of this country within a very short period of time.

I spent a considerable amount of my time working in India. It is a very scary view of the future. But we have to be able to talk about the sustenance of those systems in the end, the ability of the soil to produce biomass across that all the way from preservation to wheat fields. Yes, it is inclusive, but we are not talking about maintaining those wheat fields as buffalo pastures. They're produc-

ing wheat, but we're worried about producing wheat for thousands of years—not hundreds, but thousands.

Mr. VOLKMER. I understand that, but my question is: Are we—I guess it is a difference in wordage, and the wordage that bothers me a little bit is "preservation." That's a word that bothers me. The reason I'm saying that is because I see this country, along with the rest of the world, continually going through a change. That change will take place no matter what laws I pass. That's going to happen.

Now, what do we mean when we say we are going to preserve the ecology? Do you understand what I'm concerned about? How do you preserve an ecology?

Mr. GORDON. Could I comment on that?

Mr. VOLKMER. Or can we take away the word "preserve" and use something else?

Mr. GORDON. I think the word I used was "ecosystem management." If I didn't, I misspoke. That set of concepts has as its basic premise that there are now—if there ever was a time when nature and humanity were separate and went their separate ways, that's no longer true. Virtually every ecosystem or place on Earth is influenced by people, whether we acknowledge it or not.

So to manage ecosystems means to admit that people are to some degree controlling them and to act accordingly. Given the conditions that Jack Thomas just alluded to, the only way ecosystems are going to be preserved is to be used by human beings purposefully. And so the trick is how you keep biodiversity, how you protect endangered species, and, at the same time, use the ecosystem.

The notion of sustainability is there—that is, a use that you can either adapt to future conditions—and I couldn't agree with you more that they will change, no matter what we do, and probably change in some ways we can't predict. One of the components has to be adaptation. How do we adapt and how do we help the organisms that are in there adapt to those changes? Those are things that we haven't really focused on in a land management sense very heavily in the past.

Mr. VOLKMER. The gentleman from Oregon.

Mr. SMITH. I just have one more question.

Dr. Franklin, I think you recovered the ball on my 1-yard line with your last statement. The gentleman from Indiana always makes me salivate when he starts discussing these issues in my home State.

We have estimated about 1 million acres of dead timber. We have estimated 1 billion board feet of timber that is dead. Should we take that out and reseed the country, or let it stand?

Mr. FRANKLIN. Do I have to do one or the other? Couldn't I do some of both?

Mr. SMITH. You could let Dr. Thomas answer the question.

Mr. FRANKLIN. It seems obvious to me that in some cases you remove some of that timber volume, although hopefully with greater sensitivity than we've had in the past to the importance of retaining some deadwood in the system. You'd probably have a little more than you need in some of those. But probably also, for various reasons, including watershed values, you'd leave some of it alone. I think there is no one prescriptive answer to that.

I also bounce a question back to you. Why aren't we putting some money into putting some of those rural populations to work in a prescribed burning program to put fire back to work in those landscapes? I have had an eminent east side ecologist suggest to me that we should prescribe burning about one-quarter of 1 million acres a year over there.

Mr. SMITH. You're absolutely correct, and we're doing that with the Blue Mountain Institute, which was just begun. Dr. Thomas can speak about that. I hear what you mean, but there are those who say we should not touch that country because that's the natural way of doing that, that's the way the good Lord created forests. You let them stand there and they are dead, and in 1,000 years they'll regenerate. My question is: Do you believe in that?

Mr. FRANKLIN. Leaving it all alone and expecting it to regenerate in 1,000 years?

Mr. SMITH. Yes.

Mr. FRANKLIN. That would probably not be my prescription. No. I don't think it would be.

Mr. SMITH. Thank you.

Mr. FRANKLIN. That's a pretty drastic kind of prescription.

Mr. SMITH. I just wanted the gentleman from Indiana to hear that directly from you.

Mr. FRANKLIN. However, let me just comment that it is variable over on the east side, and a lot of that that you see is not the result of natural process, but is because we eliminated fire from those systems 80 or 90 years ago.

Mr. SMITH. These are lodgepole pine stands, as you may know. That might not fit that kind of prescription. But should we try to synthetically control the spruce budworm and the mountain pine beetle?

Mr. FRANKLIN. That's outside of my area of expertise. I don't know about—

Mr. SMITH. That's why they're dead, you know—the explosion of insects.

Let me ask Dr. Thomas the same question quickly.

Mr. THOMAS. Those questions, no, sir: First, I'll answer the question.

It is fairly obvious if you intend to produce—that's going to be a management decision, but if we make the assumption we are going to produce timber on the east side, we have a lot of dead timber, my personal opinion is that a substantial portion of it should be harvested under care and meeting the management prescriptions. The second thing is, though—that's an immediate question. There is a longer-term question. You're right. We had mountain pine beetle 10 years ago. That's not our problem now, it's spruce budworm. Essentially it is knocking out fir encroachment on fire climax pine sites.

Our bigger question is going to be how we deal with those sites now. If we don't do anything, they're going to come back to fir. We maintained those stands in fir with three generous applications of chlorinated hydrocarbons called DDT. It worked well.

Unfortunately, it did a lot of other things we didn't like much, so we don't do that any more. But we can't sustain fir off site on those fire climax pine sites to rotation, so we either accept a continuing

reinvasion of fir or we go into some new kind of management prescription which is probably either mechanical control if fire is not acceptable—and that's probably prohibitively expensive. Fire is probably the only mechanism that is within reasonable cost.

So yes, I think we need some short-term salvage, particularly on our best sites. For regeneration quickly we're going to—as a wild-life biologist, we're going to be covered short in terms of big game, which is, as you know, a large concern in the blue mountains.

So it is not an all or nothing thing. We couldn't salvage all that timber if we set out—if you guys said, "Hey, we just found the money pot. Go do it." we probably couldn't reach more than 20 to 25 percent of that timber before it goes bad, and then we're going to have to be dealing with longer-term questions.

But if the question is: Is that system in collapse? The system that we have let develop through fire inclusion is in collapse. I think that's quite natural, and I think if we left everything alone we would get a return to the ponderosa pine system with fire, but it would be something that was in a nonmanaged state.

Those are questions that we are going to have to face up to.

Mr. SMITH. Thank you.

Mr. VOLKMER. Let me ask a question, and then I'll yield.

I'd like to clarify this for the record. If we let the true fir come on, what happens to it?

Mr. THOMAS. Again, if past is prologue, we never saw this happen until we excluded fire. Let me explain something. Sites in the blue mountain that are flat or tilt South or West have a tendency to be in ponderosa pine. This is a very general description—which burned at 5- to 8-year intervals, but the intensity of the fire was low enough that it took out the fir, which is very susceptible to fire, and left ponderosa pine. We began to exclude fire very successfully after 1950.

When the fir encroached, the only reason we ever got to where we are is that we did management that included broadscale aerial application of DDT. I suspect we would never see this situation again because there would be a constant either spruce budworm or Douglas-fir tussock moth that would take that fir out. The only trouble is that as it comes in and takes it out it leaves dead trees. We do get fire. Then it will burn too hot. If it burns too hot, it takes the pine out, too.

So we are kind of caught in a situation of our own making, but we're going to have to decide what we're going to do about that—either let it go through that continuing cycle—we can apply micro-bials. We apply this as a disease that we apply that will take the insect population down, the defoliators, but it doesn't really press it down like the DDT did, it depresses it and it is depressed in a couple of years and here it comes again.

Mr. VOLKMER. Now we're talking about the fir?

Mr. THOMAS. That's white fir. Yes, sir.

Mr. VOLKMER. And that's not good for anything?

Mr. THOMAS. No. In fact, a great discovery was that when it encroached the foresters went out there and drilled holes in those trees and they said, "Holy mackerel, we can grow two or three times more wood this way than we could with pine." But we made the assumption that we could carry those trees through to rotation

age where we could harvest them. Constant insect reinfestation or infestation time after time gives us severe doubt that we can carry that white fir on pine sites through to rotation without use of DDT or some kind of chlorinated hydrocarbon.

Mr. VOLKMER. Then, in other words, it would be infested and be killed because of that?

Mr. THOMAS. The two primary defoliators are Douglas-fir tussock moth and spruce budworm, and we're looking at spruce budworm now. Douglas-fir tussock moth is sitting right there at outbreak level now.

Mr. VOLKMER. If the decision is made to take out part of the diseased areas, what should be planted back in there?

Mr. THOMAS. On pine sites we would encourage reproduction of pine either through planting or natural reseeding. That only makes sense, though, if you can control the fir; otherwise, the fir will—the successional process will take it to fir in the absence of fire.

Mr. VOLKMER. So you use the fire to clear out the fir before it gets too big?

Mr. THOMAS. Yes, sir. Usually if you burn it at a 5- to 8-year frequency it would take it out before it was very large.

Mr. VOLKMER. The gentleman from Indiana.

Mr. MORRISON. Mr. Chairman, as we have covered this subject some before, it is an extraordinarily complex situation on the east side of—I might suggest to you, Mr. Chairman, maybe there would be some time that we ought to have a hearing just on the east side issues, because they deserve more attention than what we have the time to give this afternoon.

I appreciate the views of the gentleman from Oregon. I would prefer that you not represent my position the way it is the way you have, and I would like some time to be able to discuss those matters at greater length, but because we have gotten into this issue—Dr. Thomas, you said basically the system has collapsed on the east side. Dr. Franklin agrees with that. Is it correct that the ecological health of the east side forest is in as bad shape or worse than the forests on the west side?

Mr. THOMAS. Yes. I would want to make one thing clear, though, because you'll hear people—I could say it either way. If we consider the system that we have let evolve since 1950 or 1940 with fire protection, which is an unnatural situation, it is indeed unraveling. If you look at it in the larger ecological context of centuries, it is merely returning to what it is. But in the short term, for us normal human beings that live out there, the system is in serious trouble.

Mr. JONTZ. And you have made the point that our policies with regard to forest management concerning fire and concerning timber production and other factors are one of the reasons why we have the situation we do; is that correct?

Mr. THOMAS. Yes, sir, but I don't think any of us were arguing in 1950 or 1960 that fire exclusion was a bad idea.

Mr. JONTZ. I understand.

Mr. THOMAS. I thought that's really neat. We've got an expansion in elk populations due to that and some other things.

Mr. JONTZ. So would it be your view that we do need to convene some of our best scientific thinkers to look at these issues on the

east side and to come up with some sort of a prescriptive policy which could include management fire, which could include some additional reserve areas to have some sort of a strategy to deal with these east side issues in terms of sustaining the ecological systems on the east side?

Mr. THOMAS. I don't think anyone would argue with that. I would make the point that if there wasn't such a thing as the spotted owl probably the No. 1 forest issue in North America right now would be the east side of Oregon and Washington.

Mr. JONTZ. And the issue of whether there should be some sort of interim protection for some areas on the east side or some sort of interim management is the other question we'd have to address. Obviously we're all very concerned about what happens if cut from the west side gets shifted to the east side—which, quite honestly, I think has happened to some extent—and would be a problem that could be exacerbated were we to deal with the west side and not with the east side.

Although I understand the problems are different on the east side and the west side, I understand in many ways they are more complex. I understand that what a scientific study might produce would be a different set of recommendations or prescriptions than what would be produced for the west side.

I understand that the role of restoration might be much greater as compared to the role of establishing reserves on the east side rather than on the west side, but all those differences really—the problem we face is a serious one on the east side as well as the west side, and the east side is deserving of our attention in that sense. Do you agree?

Mr. THOMAS. I certainly agree with that, but I want to add one caveat.

Mr. JONTZ. Sure.

Mr. THOMAS. Most of the trees that are now dead that we have to consider what we are going to do about in the short term are white fir. They do not persist in a marketable situation very long. I don't think we have the same—the systems that we have described for the west side are very, very stable compared to those on the east side. When you're talking about a short-term solution of east side versus west side, you can't talk about preservation of options nearly as confidently as you can on the east side. We have a limited timeframe to deal with whether we wish to salvage, what we wish to salvage, and how we wish to do it, because that material is only salvageable for 2 to 3 years.

Mr. JONTZ. So we have a different set of choices in that sense?

Mr. THOMAS. Yes, sir. I would not—you are certainly correct that we have just as much need east side to consider what we are doing as west side.

Mr. JONTZ. And, Dr. Franklin, you would basically agree?

Mr. FRANKLIN. Yes, I would.

Mr. JONTZ. Thank you, Mr. Chairman.

Mr. VOLKMER. I just want to make something clear, as I remember our previous discussion on this, that overcutting is not the problem on the east side.

Mr. THOMAS. No, sir. I think we have—that's such an explosive term. No. Overcutting is a problem, particularly as it is aimed at

the long-term harvest of ponderosa pine, which was our predominant high-value timber species. We had a number of mills that were set up to mill essentially old-growth large pine. That have been the sustenance of a number of mills on the east side. Those types of trees are running into very short supply now, and I can promise you that we will come into a conflict situation over how much of the remaining large ponderosa pine we harvest.

Mr. VOLKMER. But our more immediate problem, from what you told me, is basically the diseased areas with the white pine and—

Mr. THOMAS. That's correct. Our most immediate problem is insect and disease, both in terms of what it is doing and what we are going to do about it. Not only is that a short-term question, but the longer-term question of how we intend to manage those forests 50 years out and for what purposes.

Mr. VOLKMER. And if we just leave them sit there and do nothing we're not going to have very much 50 years from now.

Mr. THOMAS. Yes. We'll have a lot 50 years from now, but we won't have a lot of timber production 50 years from now. It is a matter of making public decisions on what we want out of those forests. Those are not as productive as the west side forests, but the part of those of us who live on the east side—we talk about—

Mr. VOLKMER. Do you have a lot of true fir, or—

Mr. THOMAS. Well, we have—

Mr. VOLKMER. Fifty years from now if we do nothing—

Mr. THOMAS. Fifty years from now if we do absolutely nothing I suspect we will have been through two or three Douglas-fir tussock moth outbreaks and a couple of spruce budworm outbreaks which will continue to depress that encroaching fir.

Mr. VOLKMER. Not much else then?

Mr. THOMAS. It depends on how that burns, which is the next question. If we were to allow that to burn, are we going to a burning procedure? There are all kinds of scenarios to bring forward. The forest would be there, but if you have ever been in eastern Washington and Oregon, there are not many of us folks that live out there, and the reason that there are not many of us out there is that it is not the most productive piece of the world. But if you throw in a little livestock grazing and some pretty good wildlife habitat and hunting and fishing and recreational use and some timber operations, it is enough to support the people that are there.

Mr. VOLKMER. I'll yield to the gentleman from Indiana for a quick question, and then we have a vote.

Mr. JONTZ. We had this discussion, and I remember very clearly we did discuss the question of whether overcutting was a portion of the problem, whether there were situations where too much was cut, and I remember very distinctly both Dr. Thomas and Dr. Franklin, after we spent some time discussing this, said yes.

I guess I don't know if we have time to get this all resolved here today, but we talked earlier this morning about the total cut for region 6, the total sales program for region 6. I don't know that—I guess it is a question like we discussed before on the BLM lands—whether a 900 million board foot cut is a health thing under the present circumstances or not. I think it is a very important question that we ought to address. I don't know.

I remember very distinctly the conversation we had in room 1302, and I want to give you both a chance to amplify your views because I think it is an extraordinarily important issue, and the notion that cutting timber—the volume of the cut and where we cut it—isn't a factor in terms of the problems facing the east side, I don't think is the impression that we want to leave on the record.

Mr. JOHNSON. Can I say something, Congressman?

Mr. JONTZ. Sure.

Mr. JOHNSON. This is related to that. There's no question that the ponderosa pine has been cut at the east side at a faster-than-sustainable level. There is no question it has been the major focus of the harvest program until now because it has been where the value is.

If, in fact, the trees that replaced it, mainly white fir, could be carried to rotation, because they are faster growing, then you might say overall we have not overcut because of the fact we could sustain the harvest levels of the past, even though it would be a different species.

But if, in fact, the white fir cannot be carried to rotation for a variety of reasons, then it is true that in the future, or at least for the foreseeable future, we'll have a lower harvest over there that can be sustained.

Mr. THOMAS. I'd say precisely the same thing.

These terms are so explosive. Overcut. I would look back historically, as Norm just described to you, and I would concur with that. I would not have concurred with that 15 years ago because I believed at that time we could carry fir off site through to rotation age and we could harvest it. We have questioned very strongly now whether we can do that, so the situation has, indeed, changed.

Given that, yes, I would agree with that. But I still—the only point that I would make that is what you are discovering is that the east side question is so ecologically different from the west side that they should be considered that the same people trying to think their way through the problems may just get their feet tangled up. It probably deserves its own individual attention.

But, as I tell you, I'm absolutely positive, if it weren't for a thing called a spotted owl, the No. 1 forestry issue in North America that we'd be having a hearing on today would be what we do in the blue mountains on the east side.

Mr. VOLKMER. We have still got a few minutes. The second vote just rang, so we've got less than 10 minutes.

Do you want to go now, Jolene, or do you want to come back after the vote?

Mrs. UNSOELD. I will come back, but I think I could be disposed of for this panel before.

Mr. VOLKMER. Go ahead.

Mrs. UNSOELD. Thank you, Mr. Chairman. You are once again demonstrating you've got staying power, but this has been a very productive hearing.

Although I'm a proponent of experiential education, I've had a belly full with the owl. I welcome what I hear beginning to be echoed by you folks that species-by-species management just doesn't work.

I'm appreciative, Norman, of your amplifying that in your last comments of your written statement, but you said watershed is critical for the anadromous fishery and other concerns. Think bigger, because several hundred of those fish stock waiting out here are not anadromous. It is a much larger ecosystem problem.

There were various terms that we used that we have. It is management practice that has us here, and to reach environmentally sustainable use of our resources we need to change those practices. That's me saying it.

But there is circumstantial evidence, Dr. Thomas said, that owls are perhaps nesting in areas where we have structured a mimicry of the characteristics of old growth in managed lands. There is circumstantial evidence that some of these other things will work, but what kind of a—I want to follow up now on Sid Morrison's question—what kind of scientific monitoring do we do and guidance do you give us as we achieve this evolution in our approach so that we can monitor what we're doing but we don't have to just stand here and wait until we have all the data because that time will not come?

Jerry, you didn't get to answer that question when Sid asked it. Please pick up on that, and then any of the others of you that would like to answer on it.

Mr. FRANKLIN. Do you want to start with Jack?

Mrs. UNSOELD. No. I want to start with you.

Mr. FRANKLIN. OK.

Mr. VOLKMER. We need to get over there to vote.

Mrs. UNSOELD. I'll be back.

[Recess taken.]

Mr. VOLKMER. Jolene, do you want to pick it up?

Mrs. UNSOELD. Yes. If Dr. Franklin would tell us how we are going to structure that and what guidance we give to a scientific monitoring committee or advisory committee—

Mr. FRANKLIN. I don't know how Jack is going to feel about what I am going to say here, but the truth of the matter is that we almost always make our decisions about resource management based on incomplete information. We never have complete information. We didn't have it when we started out disperse patch clear-cutting. We had some scientific information. We made some hypotheses about how well things were going to work. We started trying it and learning in the process as we went.

To a certain extent I think we are going to end up doing the same thing with spotted owls. I don't think anyone really believes we are going to wait 50, 60, 70, or 80 years until we see if these procedures actually work.

But what we will do in the next 4 or 5 years—maybe the next 10 years—is develop a much more comprehensive information base that allows us to draw some stronger inferences about what we should do and how well it should work.

Just to give you one example, I think one of the things—there is a lot of research going on right now as to the spotted owl use of nonold-growth forest habitat in the sense of spotted owl use of forests which do not meet the traditional definition of old-growth forests.

At the Olympic Natural Resources Center, for example, at the University of Washington, we have a couple of research projects with graduate students looking specifically at, given pairs of spotted owls that are breeding pairs and are living in nonold-growth habitat, what is it that they are using in that habitat? How are they meeting their requirements in a nonold-growth situation?

What we see is that the owls appear to have a number of ways of solving their problems of structural diversity and food sources and cover, etc. So in some environments where there are patches of old growth in a matrix of younger stands they sort of commute from patch to patch. In other stands right on the coast where trees have grown fast, even a young stand, just as in the redwood region, has enough structure to be suitable.

In many other cases we see mixed structure stands where big pieces of old growth were left behind—that is to say individual old-growth trees and snags and logs are left scattered through a matrix of what is now a younger stand.

From studies like that, and as we can learn more about what specifically it is that the owls are responding to—how much is prey, how much is protective cover, thermal cover, etc.—then we can be on sounder and sounder ground as we make predictions about what management procedures might work.

A second thing that we are going to have to do—and it is going to cost—is monitoring, as Jack has mentioned. We are really going to have to do monitoring, and nobody has done it. Nobody has done it for any of our resources adequately. If we are going to begin to do things, we're going to have to spend the money to see whether we are getting the outcomes that we want—for example, with owls. That's going to be difficult and it is going to be expensive.

Again, a very careful study is going to be quite expensive—to actually try different silvicultural treatments and scientifically determine what kinds of responses we get. Nobody is talking about that kind of experiment right now.

We have a think group in the Olympic Natural Resource Center which has been talking about the statistical design issues in such a project. If you want the scientific community to do that kind of thing, I think you're going to think very hard about the investment of land and dollars necessary to generate statistically sound conclusions about effects of manipulating owl habitat.

So to go back to your original question, we can develop an information base that gives us a basis for some strong inferences, some strong predictions, and we move ahead on that. It is basically the same with new forestry. We have a scientific base that says a lot of what we are doing isn't working for a lot of our objectives. We don't wait until we have tested these things out comprehensively to begin doing something different. We take the best science we've got, we make some predictions, and then we begin to do it and learn and do adaptive management and change as we see the changes are necessary.

When you see a forester tell you that these kinds of things are not proven, just remind him that nothing he ever did was a scientifically tested system before we instituted it. We don't work that way as a society.

Does that give you some perspective on it?

Mrs. UNSOELD. Yes.

Does anybody else want to throw in an oar?

Mr. THOMAS. Yes. I'll throw one in.

I don't disagree with what Jerry said, but I'll warn you very stringently it is not going to fly within the next 5 years. You're not going to enter spotted owl management areas, and it won't stand in court. You're dead on arrival. We may build a better data base and a better conjectural way to approach those things, but don't become—we're all fascinated with that owl. That owl is symptomatic. It's not the real problem and it is not the real question. It has certainly been used as a surrogate in political operations because it does occur most frequently in old growth.

If you consider it an indicator, be concerned that there is a whole number of other species that are sitting out there. If we learn how to satisfy the requirements for the owl and it doesn't satisfy the requirements for the other species, we're right back.

I'll make a prediction. If we continue on our present course, the next thing that you're going to run into in terms of threatened species associated with those habitats are salamanders.

Mrs. UNSOELD. I don't want you to do the species-by-species. I want the ecosystem management approach. But how do you monitor it? You can keep track of whether you are moving in the right direction or whether you need to correct it? Do you think that takes 5 years before we can begin to construct an ecosystem management plan?

Mr. THOMAS. Yes. It is going to take some time. We are well founded in theory to be able to move in that direction, but nobody has done it yet. It is going to take some false starts and it is going to take some time.

But if you watch all those plans that are built in there, there are enormous obligations to monitor.

Mrs. UNSOELD. That's what Jerry would say.

Mr. THOMAS. There is no full discussion of how you monitor what the statistical designs are, whether the qualified—

Mrs. UNSOELD. And that's what I was asking.

Mr. THOMAS. In fact, I think we're not going to be able to monitor all those plans across the board. I think we're going to have to sample our monitoring. In other words, if you are going to do treatment A and you are going to do it in 500 places, it is obviously not going to be feasible to monitor all 500. I think we're going to have to subsample within our monitoring schemes.

I think we have promised a considerable amount in monitoring that we need to be very careful that we indeed do because the monitoring has been a surrogate for knowledge. In other words, we said we're going to proceed in this direction in the absence of full knowledge with full monitoring. If we are messing up, we're going to pull back or we are going to change direction. If we really mean that, we're going to have to proceed to do it, and we are not well prepared to do it right now.

Mr. FRANKLIN. That's an important point. We really don't have good designs for monitoring systems, particularly for monitoring biological processes. Again, that's one of the things that we are diving into with some of the Olympic Natural Resource money—the whole issue of design of monitoring systems.

Mr. THOMAS. I would make one more point along with what Jerry is saying. I'm not really sure that the sophisticated monitoring designs can be put together inside the management organization. It is not something we are accustomed to doing, and it is going to require——

Mrs. UNSOELD. Inside the management?

Mr. THOMAS. Inside of the National Forest System.

Mrs. UNSOELD. That's part of what I am asking.

Mr. THOMAS. We're probably going to have to move to do research that is centered around the monitoring requirements to develop the protocols and test them and put them out there, because, as all of us are finding out, if we promise a scientific, technical approach, we'd better be able to deliver that because it will be examined. We will have to be able to tell the difference statistically and so forth with appropriate designs, and we just don't have enough people out there that are trained to do that sort of thing, nor have the time to test it.

I think we're going to have to put some of that into the research division for the initial development and testing of the monitoring operation.

Mr. VOLKMER. Thank you.

Mrs. UNSOELD. Would you like anybody else——

Mr. VOLKMER. I think that's enough. I just wanted to close on that. I appreciate the gentlewoman from Washington for bringing it out. I agree that we have to have additional research in order to do the monitoring before you can do valid monitoring. At least we are going to learn from the steps as we take them.

Is that basically what you're saying?

Mr. THOMAS. I think what I am saying is that there is a mechanism that we talk about. It is very well described in a report called "Adaptive Management." That sounds like a very catchy—we just figured out how to do that. We've been doing adaptive management since mankind either was placed in the Garden of Eden or climbed out of the slime, whichever persuasion you happen to have, but human beings have been doing adaptive management throughout our entire life as a species.

Mr. VOLKMER. With that, I want to thank this panel for waiting all day and spending a little over 2 hours with us. I appreciate it and look forward to again hearing from you in regard to our letter. I guess that will be next week. We'll be back in touch with you as we start developing legislation. Thank you very much. We really appreciate your being here. You've been very helpful.

Our final panel is: Ms. Christine Sproul, assistant secretary for resources, State of California, from Sacramento; Mr. Richard Nafziger, special assistant to the Governor, State of Washington; Mr. Craig Partridge, director, office of policy, research, and development, department of natural resources, from Olympia.

You're probably all going to miss your flights back to Seattle and Sacramento, or wherever you are going back to this evening. You get to spend a night in Washington.

Ms. SPROUL. We've made adjustments.

Mr. VOLKMER. All right.

All of your statements will be made a part of the record. You may either summarize or review your statement in full. I appreciate your being here and look forward to your testimony.

Ms. Sproul.

**STATEMENT OF CHRISTINE SPROUL, ASSISTANT SECRETARY,
RESOURCES AGENCY, STATE OF CALIFORNIA**

Ms. SPROUL. Thank you, Mr. Chairman and members of the committee. I appreciate the opportunity this evening to offer the views of California on proposals for ancient forest protection on Federal lands. It is my pleasure tonight to be here representing the secretary for resources, Douglas Wheeler, and to describe for you Governor Wilson's new resourceful California program.

I won't read my statement in full. I feel that the discussion of the scientific panel which just preceded us raised many of the issues in which California is interested and which are briefly addressed the statement, but there are some things I would like to focus on.

California, like the other Pacific Coast States, is very much affected by the controversy over the need to balance protection for the owl and ancient forests with economic and community concerns. I think one of the important focuses of the testimony today has indicated that, at least for California, protection of ancient forests is a distinct issue from protection of wildlife, in general, and specifically from protection of the northern spotted owl and other owls in California.

The protection of old-growth forests and endangered species in forest lands and rural economic issues are major concerns in California. The importance of this issue is illustrated by pointing to the recent critical habitat proposal from the Fish and Wildlife Service which lists roughly the same acreage in California to be set aside for critical habitat—about 3 million acres—as that set aside for Washington State, with one key difference. In California, 1.4 million of those acres are on private lands. This is a distinct departure from the recommended preservation areas for owl purposes which were covered in the Thomas report. So we're seeing an expansion.

In addition, of course, the recent court order which has been discussed much today that was issued in the Seattle Audubon Society case enjoins sales in four northern California forests, as well as sales in region 6.

We believe that any legislation related to the management of old-growth values in national forests in the Pacific northwest and California will have major ramifications for us, and we want to point out that California as a State has moved aggressively to address issues of forest management and protection through a strong regulatory system on private lands.

We require an approved timber harvest plan before harvest can commence. Our rules limit clearcutting to no more than 80 acres generally and up to 120 acres in rare circumstances. We provide water course protection, which I think today has been indicated as an important connecting factor for various wildlife and ecosystem management schemes. And we are looking now at sustained yield

issues and further strengthening our wildlife protection on private lands.

We are also pursuing bioregional approaches with Federal land managers to look at forest land ecosystems and endangered wildlife, and we are participating in the spotted owl recovery team efforts. So, I hope that you'll consider all these various efforts that are underway when you move to draft legislation to address these issues and that you will focus on solutions which are supportive of these efforts.

I just want to highlight a few of the impacts for Federal agencies, for the State, and for private owners.

Since the listing process began for the northern spotted owl in the Klamath Province, which is the four northern California forests, our target levels of sale have dropped from 700 million board feet to about 100 million board feet, and indications are from the Federal forest supervisors that we'll be lucky to even approach that in the coming year. Essentially we're looking at a shutdown of harvest based on the Dwyer decision which was recently issued.

This has caused cases of extreme hardship throughout many of our rural communities. There are several areas in northwestern California which depend on timber and lumber and wood products for over 65 and up to 90 percent of their manufacturing employment. Obviously that severe a cutback in that entire region has caused great dislocation and community concern and stress on social services in those communities.

One of those areas particularly affected is the mills in Siskiyou County and the entire Klamath River Corridor, those areas are dependent on supply from Federal forests. They are surrounded by those Federal forests. To be supplied by logs from private forests would not be economically advantageous for them, and they are essentially left with little alternative and little opportunity to diversify.

Importantly, something which coincides with the decrease in Federal cuts is a series of State rules which have been enacted to protect spotted owls on private lands when timber harvests are proposed. The State has prohibited timber harvesting that would result in a take of the northern spotted owl. We have also instituted procedures which require surveys to determine the presence of the owls, and we have instituted preparation of a habitat conservation plan which the State is pursuing for the protection of the owl. These things we are pursuing at costs to both the State and to private landowners.

These tools have increased our knowledge of the owl and indicated that we are now finding owls on second-growth forests and on managed forests in California. The number of owls expected to be found on private property has substantially increased from under 100 on the Thomas report to over 500 pairs.

We are learning that the owl is well distributed in California, despite some differences in terms of habitat adaptability, at least, and that we have a population which is far greater than the population which I think was anticipated and which had been expected to dwindle rapidly.

Added to the load which was created by the reduction in harvest on Forest Service lands and the reduction which results from the

State's rules, we recently received a critical habitat designation proposal from the Fish and Wildlife Service, and there is great concern over the impact of the proposed designation of 1.4 million acres of private lands.

Although the Fish and Wildlife Service has indicated that this should not be perceived as a total set-aside, I think it is important to note that setting aside of those private lands which include second growth is a great departure from the basis for listing and the protective basis that was presented in the Thomas report, which was essentially to maintain old-growth reserves and owl populations in those areas.

So we are seeing a shift in the information that is developing and a shift in the protective procedures that are being proposed, without clear indications of how those areas will be treated for future harvests, either on the Federal lands or on the State and private lands.

This, I think, makes it critical also in pursuing your legislative solutions to focus on the way in which old growth is defined and to make clear those values which you are intending to protect.

The third area of impact that we are seeing in California is the growing effects of concern for a close relative of the northern owl, the California owl. I think this is important to recognize in the sense of our need to look at multiple species and multiple ownerships across landscape areas. The California owl range runs from the Pitt River in the north down through the Sierra Nevada, over to the coast range, and into the Monterey area, and almost to the border of Mexico.

It is also worth recognizing that it runs from the elevated conifers in the Sierra down to as low as 1,000 feet in elevation into the hardwood and oak woodlands, the rangelands which interface with the valley floor, and that it follows riparian stringers down into those oak woodland areas. So we are seeing owls which bridge a number of different ecosystems, again I think underscoring the need to look at both multiple species and multiple ownership and an ecosystem approach.

Although the California owl is not currently under listing review by the Fish and Wildlife Service, the Forest Service and the department of fish and game in California are already responding to its needs in their management decisions and in litigation. Again, sales in the Sequoia have already been held up pending further protective measures being developed for the California owl.

So I guess the long and short of that is to indicate that, in terms of old growth and owl conservation concerns in California, we are seeing not just a focus on the Klamath Province, but we're seeing up to a 50 million acre area that could potentially be affected, as we look at these issues all together.

In response to these and other environmental issues, Governor Wilson has unveiled a program called "Resourceful California" which is a program comprised of both stewardship and partnership and preventive management options. We're looking at a bond measure to purchase and protect ancient forests and riparian habitats and other critical habitat. A related piece of the resourceful California program would strengthen the protective measures provided on private lands from timber harvest operations.

In that vein, some of the areas being considered are: Reduced clearcutting size, longer harvest rotation periods, and greater protection for landowners and laborers in the sense of a sustained yield by looking at a percent of inventory as a harvest rate.

We are also moving to look at these issues in terms of their application on a watershed basis so that we can focus on ecosystem protection.

Finally, the Governor's program underscores an already existing joint timberlands task force which was created by our legislature in 1989, which is comprised of both Federal and State agencies and is directed to take a bioregional approach to wildlife habitat protection on California's complex mosaic of forestlands.

The purpose of the task force is to pursue an integrated management approach which brings together Federal, State, and private land managers. The focus here is also forest ecosystem protection, and our drive here is to get beyond species-by-species consideration.

We have two bioregions that have been defined by the task force in which pilot projects are already underway. Those are the Klamath Province, which is the four northern California forests and related private areas; and the Sierra bioregion, which is essentially the major habitat for the California owl. These projects are looking at the forest ecosystems and multiple species, geographic information system mapping, and addressing wildlife habitat relationships and connecting them to those maps.

We think this is an important effort in blending our growing knowledge of the owl's habitat needs and forest ecosystem management with our need to develop a habitat conservation plan and our efforts to assess the status of the California owl.

I think underscoring all of this is our need to recognize that we need a management system that recognizes conservation on State and private lands, and that looks at all the different land managers that are involved in these issues and the fact that land managers need to work together, if we are to protect the ecosystems out there.

Another important aspect of this I think is an issue that has come up several times today, and that is our need to be assured of taking into account evolving science and our ability to have our management systems respond to new science, as it indicates that the needs that we thought are being met aren't being met, or that the owl has more flexibility or other wildlife has more flexibility. Again, it is both an ecosystem approach and an ability to have a feedback "loop" which will tell us that we are headed in the right direction and if we need to make some correctional changes.

I think it is important to recognize bioregional differences. I think some of the conversation that you had with Dr. Thomas is helpful in underscoring that.

He indicated that the east side of Oregon and Washington present vastly different ecosystem issues than the west side. I would argue that the Klamath Province in California and the Sierra Nevada area in California also help indicate that we have bioregional separation on many of our wildlife issues and our old-growth issues. I would urge that you recognize those distinctions when you move toward addressing solutions.

We think that for the Sierra Nevada we have a unique opportunity to plan for and to apply bioregional conservation principles across these forest landscapes, and that ancient forests will play a critical part in those management decisions. We also think that an integrated management approach offers the best opportunity to protect multiple species and to demonstrate that multiple uses are compatible across a landscape.

I would indicate to the committee that our present time schedule indicates we'll need between 2 and 3 years to complete our pilot projects in the Klamath and the Sierra. We want to make sure that we have latitude to complete those and that our approach is consistent with that that's taken in Federal legislation and that would maximize the tools that we all have available to deal with the multiple species issues.

I have just a few comments on the proposed legislation which is pending.

We would support generally the proposal to designate areas of ancient forest for additional protection, but, this said, we would make a few additional suggestions.

We need to make sure that any protected areas are based on the best science which is available and on the broad public interest. We need a scientific basis which will provide a way to determine those old-growth areas which are biologically significant, which are productive in terms of biological diversity, and which are also capable of being sustained.

We have heard several notions today about differences in biological diversity depending on elevation of an area or depending on the ecosystem or the species it supports, and depending on its connectivity and other values that it may support. I think our view is that we need a sound scientific basis to move ahead to identify old growth and to identify areas that we want to set aside for special attention.

In addition, with regard to reserve areas, it seems to us that it is appropriate to have some flexibility both to add or delete areas over time and to adjust reserve boundaries. Since we recognize that our understanding of old-growth ecosystems is evolving and our ability to sustain those systems likely will also be evolving, a feedback loop is needed so that we can make sure that we are headed in the right direction.

Finally, we think for Federal managers that there is a need for tools and flexibility to control threats to those areas that you wish to be preserved and privately owned stands which are surrounded by or adjacent to those reserved areas.

I guess with respect to the supply questions, I recognize that this is a very difficult area, and the one point that I would want to underscore from the standpoint of California interest, and I believe this is also consistent for the other States is: What we need is a stable, long-term supply. If we are to have sales targets, they need to be both realistic and achievable. From our way of thinking, we need to make sure that those targets don't obscure issues that are related to protecting ecosystems as a whole and are related to demonstrating the compatibility of different activities on those forest lands.

Our preference, rather than focusing on specific cutting targets, would be to support Federal efforts to manage forest landscapes for both wildlife protection and economic values, and that, ultimately, that would be the best way to protect a stable sale level.

Finally, we would encourage you to adopt strategies to adopt training and adjustment assistance, and also specifically to address a need to diversify local rural economies. Again, we want to urge that you work with efforts that are already underway in California.

We would also suggest adjustments to the way in which revenues are shared from Federal timber sales with counties. In the short term, raising the share from 25 to 50 percent we think would make sense to consider; however, we think it is also appropriate to consider providing some portion of regional revenues to communities which are dependent on Federal sales and for which those Federal sales are subsequently locked up, or where there are no sales. Fifty percent or a raised share level would not guarantee much in the way of support for such a community.

I guess most importantly for the long term, we would encourage developing a revenue share structure based not just on commodity sales, but on noncommodity outputs, as well, and on property values. Again, we think that's something that will contribute to long-term stability.

One additional point is that we think that the series of activities in the last year affecting spotted owl preservation on Federal lands and on private lands underscores our need to have forest land management and wildlife protection measures implemented consistently. We think there is a crying need for coordination between conservation efforts for the owl—both from the standpoint of the Fish and Wildlife Service and their critical habitat and recovery planning, and from the standpoint of forest planning—and that lack of coordination has resulted in tremendous confusion.

As part of that, we would also ask that the Federal agencies—and we will be seeking ways in which to present these issues in a direct forum—recognize efforts on private lands to protect the owl.

Finally, I just want to emphasize that the State of California and Governor Wilson are committed to the complementary goals of sustainable forestry, environmental protection, and rural economic development. We are making progress in developing programs to address these issues. As you progress toward a solution to the problems of old-growth systems, we would like to try to assure that our efforts are complementary.

I thank you for your time this evening. If you have questions, I'd be happy to try to answer them.

[The prepared statement of Ms. Sproul appears at the conclusion of the hearing.]

Mr. VOLKMER. We will have questions after we finish the panel.
Mr. Nafziger.

STATEMENT OF RICHARD NAFZIGER, SPECIAL ASSISTANT TO THE GOVERNOR, ON BEHALF OF GOVERNOR BOOTH GARDNER, STATE OF WASHINGTON

Mr. NAFZIGER. Thank you, Mr. Chairman.

My name is Richard Nafziger. I'm the special assistant to Governor Gardner. I'm a member of the department of interior's spotted owl recovery team, coordinator of State programs directed toward assisting timber-dependent communities, and head of the Governor's timber team.

First of all, the Governor asked me to thank Congressman Morrison for the bipartisan and balanced approach that he has taken toward this issue and for all the time and effort he has put into it. Congressman Morrison has the confidence in the Governor, and the Governor feels a lot more comfortable knowing that he is at the table while these very difficult negotiations are going on. We appreciate his help.

The management of this issue by the current administration is a problem. We believe that the administration's management of it has exacerbated the conflict and delayed its resolution.

During the past few months at the State level we have seen a host of court injunctions, critical habitat proposals, and a whole host of disconnected Federal responses from different agencies. So from our point of view we'd like to see two things happen.

First, we would like to see Congress pass a balanced, long-term solution. Judge Dwyer's injunction shutting down Northwest timber sales poses a threat to our regional economy. We just don't buy the argument that timber under contract is going to keep things going. It isn't. It is a serious problem. Roughly 9,000 jobs in Washington State are at risk because of this injunction.

Second, the Bush administration needs to do a better job of coordinating its activities. The pain and confusion our communities have faced has gone far beyond what is necessary had this issue been better managed.

The term "balance" has been used by both sides in this issue. Since it means different things to different people, I'd like to define it on behalf of the Governor. Balance means understanding the basic values which underlie both sides of the debate. It means understanding that the ancient forests and the endangered species have incalculable value to human species and that their loss is irreversible.

But it also means understanding that our rural, timber-dependent communities have been home to timber families for generations, and that we face nothing less than the destruction of human ecology of many of these communities.

It means understanding that lives and families can be destroyed by the stroke of a pen, and that children can be deprived of health care and decent food, and that proud families can be humiliated by poverty and unemployment.

This is an issue which involves not only how we care for the Earth, but how much we care about each other. Understanding all of this makes this decision even more difficult, but we honestly believe that those who do not understand the values and needs of both sides—of both our communities and our ancient forests—are in no position to make the decisions.

Most of the rural communities in the northwest are dependent upon public timber for their survival. These communities have seen tough times in the past—recessions, depressions, technological changes which have cost jobs—but they have survived and, for the

most part, remained dynamic. In fact, the number of jobs in Washington's secondary wood processing industry has actually increased in the last decade.

If there is one point I can leave you with today, it is that the mills and logging operations which support these communities are not the big landowning, log-exporting, overcutting companies that have been publicly portrayed by some environmental groups. In fact, in most cases Federal law prohibits these big companies from buying logs from either State or federally owned land.

The firms which purchase public timber—for the most part, small- and medium-sized companies which are stable and committed employers and are the component of our industry which are often the most competitive, the most efficient, and most often the firms which have identified the high-value niche markets overseas.

If the Federal timber supply were to dry up, the consequence would be that the industry would be dominated by a handful of large, landowning companies, competition would be reduced, and the value of the holdings of the bigger companies would increase. The industry would be less diverse, less competitive, and our communities would suffer.

The components of the long-term solution should provide a balance of protection of old-growth ecological systems and a stable, predictable supply, but it also should include compensation for workers and communities which are negatively impacted. The Governor believes that the State has done its share to address this problem, but it is now time for the Federal Government to act.

The States of Oregon and Washington have both passed significant economic assistance packages in the current legislatures. Ours is a \$70 million package of aid to impacted communities.

It is essential that those of you working on the long-term proposal work with the States to make sure you don't duplicate the efforts that we are undertaking and that you understand where we are going and where you are going so we can work in a complementary way.

I'd like to now briefly talk about what we think needs to be part of a long-term solution.

First of all, we need a long-term forest management, wildlife protection, and timber supply plan, and it should include the following principles:

It should be scientifically credible and provide adequate protection for the northern spotted owl. To the extent possible, owl protection should be designed to protect the range of forest ecosystems as well as provide for the needs of other potentially threatened species.

It should provide long term, predictable, and stable supply of timber for our communities. Timber supply targets should be realistic and achievable, and at an adequate level to maintain a viable and diverse industry.

It should include a role for the Secretary of the Interior's spotted owl recovery team. As a member of the team, I think it is important to have some kind of ongoing entity who can attempt to incorporate some of the elements of adaptive management and other changes in science as they come along.

Wherever biologically feasible, the plan should rely on adaptive management, under which land managers can combine protection of wildlife with management of forests for harvest. We urge you to pay close attention to Jerry Franklin's testimony, as I know you did, as well as the principles laid out by the American Forestry Association.

The second component of any long-term solution should include the creation of jobs in the woods for dislocated timber workers, improving the value of our national forests. We are very supportive of Congresswoman Unsoeld's TREE Program—the Timber Resource Employment Enhancement Program—and we hope it can be incorporated into a final bill.

Third, assistance for dislocated workers is an essential component of any solution. Such assistance has not been forthcoming, and we believe that this Federal responsibility should be taken seriously. I have included in my written testimony detailed suggestions as to the design of such a program, and we have worked closely with organized labor on this. There is a matrix that is included in my written testimony that, on the right-hand side, describes what we think a good program would be for transitioning timber workers into a new industry.

Fourth, any long-term proposal should include replacement of lost county forest revenue receipts. As my written testimony states, the formulas in the Vento bill and the formula in the 1991 appropriations bill is inadequate. County revenues are still based on timber sales in each forest. Consequently, forests like the Olympic National Forest and the Mount Baker National Forest, which have no harvest would yield zero revenues. We'd like to see something that is based on the entire region's revenues so those counties which are hardest hit can benefit from the solution.

Finally, a solution should include community diversification assistance, as well as better coordination and enforcement of existing log export restrictions. Again, my written testimony has more specific formulations.

I'd like to conclude here with an analogy which explains why the Governor feels it is so important that a balanced solution be reached.

There is a concept in wildlife biology known as population sinks. Sinks are areas where wildlife still exists but the productivity is far below the level required to replace mortality. In the case of threatened species such as the northern spotted owl, we may still find owls living in many areas across the landscape, but the destruction of the owl's habitat is creating a situation in many of the places where owls may live on for years, but their population is declining, and over time they will wink out and they will die.

This same concept can be used to explain what happens to rural communities when they are cut off from their economic lifeblood. The people of the community will not automatically pick up and move the day the logging operation and the mill shuts down; rather, people persist in a vastly reduced quality of life for years until the area ultimately turns into a ghost town.

We are all too familiar with distressed areas such as Appalachia, the old steel towns of the Mideast, and our Nation's inner-cities where poverty and unemployment persist on for decades without

change. Despite noble efforts by policymakers, these areas have not been changed by the magic wands of diversification and retraining. Such efforts are difficult, expensive, and not always successful. There is no free lunch here.

You shouldn't be too surprised if Governors and Congressmen from the Northwest aren't too eager to make policy decisions which create such areas within their own States; however, we are optimists. We believe you can reach a balanced solution to this issue which can both protect endangered ecological systems and maintain vital rural communities.

We hope you are able to understand the value of both sides in the debate and craft a compromise which protects the essential requirements of both communities and ecological systems.

Thank you.

[The prepared statement of Mr. Nafziger appears at the conclusion of the hearing.]

Mr. VOLKMER. At this time we are going to recess. We have a vote on. There is a possibility that we may have another vote right after this vote and, as a result, it may be another 20 minutes before we reconvene. If we don't have a vote right afterwards, it will be about 10 minutes.

[Recess taken.]

Mr. VOLKMER. We thank the witnesses for waiting. We have completed our work over in the House, so we won't be interrupted any more.

We would now like to hear from Mr. Partridge.

STATEMENT OF CRAIG PARTRIDGE, DIRECTOR, OFFICE OF POLICY RESEARCH AND DEVELOPMENT, DEPARTMENT OF NATURAL RESOURCES, ON BEHALF OF BRIAN BOYLE, COMMISSIONER, PUBLIC LANDS, STATE OF WASHINGTON

Mr. PARTRIDGE. Chairman Volkmer, my name is Craig Partridge. I'm here today on behalf of Brian Boyle, the Washington State commissioner of public lands. He is the elected official responsible for the State department of natural resources. We are the managers of State-owned lands, and we are also the regulator of forest practices on all non-Federal lands in the State.

We work hand in hand with the Governor's office. I work closely with Mr. Nafziger. We also participate on the recovery team. In fact, one of the benefits of the recovery team is that it has brought the State officials from Washington, Oregon, and California together in a way that we can coordinate our efforts much more than we were doing previously.

We'd like to echo the congratulations to you, Mr. Chairman, and thanks for your leadership on this issue—your continuing leadership, I might add—and echo Mr. Nafziger's thanks to Congressman Morrison for his continuing leadership and, of course, Congresswoman Unsoeld's sincere efforts to find a solution that will help the constituents in your district.

Mr. Chairman, you were kind enough to come out to Olympia last summer and hold a hearing on this issue out in our territory. Commissioner Boyle testified at that time, and in his testimony he lamented the degree to which a lack of a coordinated Federal effort

in owl conservation was leaving the State to bear a good share of the burden for this problem. Unfortunately, that situation has continued.

Commissioner Boyle and Governor Gardner and, in fact, the State of Washington, generally, have led the way in seeking, and in many cases finding, balanced consensus solutions to our natural resources problems. Commissioner Boyle created a citizens commission on old-growth alternatives which succeeded in reaching a consensus among all the interests—the same interests that are contending before you today—on this same subject. They announced their consensus the month before the owl was proposed as being listed. We have also sought consensus solutions on forestry regulation.

Unfortunately, the fruits of those efforts at finding consensus have been increasingly poisoned by the polarization that has increased on this issue as a result of the inability by the Federal Government to arrive at a coordinated solution. Therefore, of course, we welcome Congress' efforts to shape a reasonable resolution to the issue.

In my view—and my view is shaped by my particular concern with non-Federal lands—a helpful congressional effort in this regard would have two components: First, a congressional solution must resolve the spotted owl debate as much as possible for both Federal and non-Federal lands; and, second, a helpful congressional solution will provide a reliable timber supply, as other witnesses have also alluded to.

Any bill you consider is going to be in part an ancient forest bill and in part an owl conservation bill. I think a pure ancient forest bill could actually be fairly modest and accomplish its purposes, but I think you are going to strive to include owl conservation in your goals. If you do that, you can help us or hurt us. You will hurt us if you invoke the Endangered Species Act and the legitimate plight of the owl to create large forest reserves but then leave Fish and Wildlife Service free to continue its efforts to implement the Endangered Species Act in addition to your legislation.

I heard the chairman—or perhaps it was Congressman Morrison—talk about a single jeopardy situation as being desirable. What we are afraid of is, in fact, a double jeopardy situation where we give in Congress and then we give again under the Endangered Species Act. However, you can help us if you create a biologically credible and balanced owl plan for Federal forests and also provide some clear guidance to the Fish and Wildlife Service for any further protection efforts they might engage in under the Endangered Species Act.

Of course, we are not suggesting an amendment to the Endangered Species Act, but rather that Congress provide the direction to the extent possible that its actions are sufficient to meet certain requirements of the act. I listened with great interest to the discussion Mr. Kopetski elicited this morning about sufficiency provisions.

While I realize that it is problematic, I think it very much merits your serious consideration. In fact, I helped with the creation of the Washington wilderness legislation in 1984, and all of those wilderness bills that were created about that time had sufficiency lan-

guage in relation to the procedural requirements of the National Environmental Policy Act.

I think something analogous could be developed here that would particularly assist our situation on non-Federal lands. In Washington State, the 12 million acres of non-Federal lands have been thrown into increasing uncertainty with each new proposal, from the listing, itself, to the Jack Ward Thomas recommendation, to the Fish and Wildlife Services take guidelines, and then to the latest critical habitat proposal and the upcoming recovery plan. These non-Federal lands are the lands which I think, in the discussions of transition, most observers are anticipating our industry is going to have to rely on more and more. But each new proposal related to the owl has gobbled up more of those non-Federal lands. Most of this land does not even have owls.

To a large degree, we believe that the owl protection Congress will provide on Federal lands ought to permit some release of non-Federal lands from the uncertainty that the implementation of the Endangered Species Act is currently creating.

Now, let me make myself clear. I'm not suggesting that non-Federal lands make no contribution to owl conservation. Certainly they will. In fact, our efforts in the State to date have demonstrated our commitment to owl conservation. We would like to be able to get on and implement those efforts. But the current Fish and Wildlife proposals do make demands on non-Federal lands that would not be necessary if conservation measures were in place on Federal lands.

I mentioned a stable supply of timber. That has been sufficiently addressed today. I'll just reiterate that congressional action that truly helps us won't make timber supply promises that the Forest Service can't keep. We do need you to provide both a realistic level of timber that is consistent with the owl protection you intend to provide, and then to give the Forest Service the means—whatever means necessary—to deliver on that supply.

I'm very interested in the debate that seems to be raging over the proper role of new forestry and owl conservation. In our view, new forestry concepts desperately need to be tested, and not either accepted or rejected as an article of faith, as I have heard some people on both sides of this issue do. The future importance of new forestry concepts goes beyond owls and may transform the profession of forestry generally. It would be very unfortunate, in my view, if this professional evolution were politicized, which I fear it is in danger of being.

We recommend that research and active management do have a place in your legislation as an alternative to set-asides in certain cases—not perhaps in the general case, but in certain cases—and not just piled on top of set-asides.

A proposal such as our Olympic experimental forest on State lands could have a role to play here, particularly if it is the view of Congress that experimentation not occur in the Federal habitat conservation areas, as I heard Dr. Thomas discuss earlier.

Right now our ability to experiment on State lands is being foreclosed by the posture of the Fish and Wildlife Service in implementing their act.

I'd like to thank you again for the opportunity to testify.

Commissioner Boyle has watched the disintegration of Federal policy in this area with the same consternation which I'm sure the chairman feels, but he hasn't lost his belief that a balanced solution can be found, and he would welcome the chance to assist Congress as you strive for that kind of balance.

Thank you very much.

[The prepared statement of Mr. Partridge appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you very much.

I have a few questions, and I don't know, Ms. Sproul, if you are willing to make a comment or not. At the beginning of this session this morning I had introduced into the record the opening statement of the Honorable Leon Panetta, and a statement of Congressman George Brown, both of California and both members of this subcommittee, who want to see California's Sierra Nevada Range put in the old-growth forest legislation. Do you want to comment on that?

Ms. SPROUL. I can just comment generally, Mr. Chairman. I did note that those statements had come in. I just received copies of those today.

I guess I would refer to my testimony earlier in indicating that, while we are supportive of the additional protection for ancient forests, we think it is critical that those forest areas that are to be protected be defined in some consistent fashion and that we focus on some scientific basis for setting them aside for special protection, be it ecological significance, connectivity, biological diversity, or other it is. We need a scientific basis to look at those things, and then a way to manage them that has some flexibility.

I'm not prepared to address at this point the whole Sierra or how many areas that might actually entail or what impacts that would have. I'd like to get back to the committee with additional information on that.

Mr. VOLKMER. If the Governor and Mr. Wheeler have any position on it, I'd like to have that as soon as possible.

Ms. SPROUL. OK.

Mr. VOLKMER. Mr. Nafziger, earlier today I was giving an Associated Press story about the White House possibly making changes in the Endangered Species Act. I'm not going to ask you about that, but in that article there is a statement attributed to Andy Stahl, Sierra Club Legal Defense Fund, Seattle. He said, "Hatfield's assessment of political climate is irrational." And then he says on down here, "He is saying they want lumber barons to be in charge of the forests of the Northwest, as they have been for decades. He is wrong." Lumber barons? Is that what we have had out there?

Mr. NAFZIGER. No. The point I was trying to raise in my testimony is that the purchasers of public timber are not lumber barons; they are small- and medium-sized companies who tend to be a very dynamic part of our economy. Lumber barons are——

Mr. VOLKMER. Weyerhaeuser is a lumber baron, I'd say.

Mr. NAFZIGER. That's right.

Mr. VOLKMER. They don't use public land.

Mr. NAFZIGER. No, they don't. I was a little irritated by that comment, as well.

Mr. VOLKMER. You had seen the comment?

Mr. NAFZIGER. Yes, I had.

Mr. VOLKMER. I think it again is sometimes used, and the press doesn't know any different. They'll put it out as gospel, and the people in my home State of Missouri will think that nothing but big lumber barons are tearing up the forests there. That's a shame.

Mr. PARTRIDGE. If I might, Mr. Chairman, I think we have unarguably one of the strongest forest practices laws in the Nation. I think only my colleague from California could claim to have a stronger one. I also would take exception to that comment.

Mr. VOLKMER. I'm sure of that.

Now, the other thing that I'd like to talk to you about is that all three of the States have a separate State law that you have now imposed as far as endangered species is concerned and the owls; is that correct? And so private landowners now have to go through a procedure before they can cut. We're going to have a witness tomorrow, Mr. Nafziger and Mr. Partridge—you have DNR, right? Mr. Boyle has DNR? He's going to blast you.

Mr. PARTRIDGE. He already has.

Mr. VOLKMER. He already has. He's going to do it here, too.

My question is: It is something that—some of us that are not involved in this see the taking of private property. This happened when I was out there last summer. It is very apparent to me that we have property owners out there that have a stand of timber that they may have inherited and it is ongoing and has been a part of the family. Or a person may have bought it with the idea of an investment for the future. If it is in the spotted owl territory, it is now worthless. The value is nil. Does that mean anything to any of you?

Mr. NAFZIGER. It means quite a bit. We have written the Secretary of Interior and asked for some clarification on this. Both the Governor and the land commissioner are concerned about the impact of owl protection guidelines on State and private lands.

Mr. VOLKMER. I notice in your testimony that you feel that—at least the Governor does in your statement—that there should be some action taken. Is that correct?

Mr. NAFZIGER. Yes, we do.

Mr. VOLKMER. Am I reading that properly?

Mr. NAFZIGER. Yes.

Mr. VOLKMER. Those people should not bear the hardship of protecting something for the public good?

Mr. NAFZIGER. I think there is a—Craig, you might want to comment on this—I think there is a role for both the State and private landowners to play in this equation, but right now that role is very unclear and we are having a very difficult time managing it because we can't get straight answers from each of the different divisions of the Fish and Wildlife Service on this.

Mr. PARTRIDGE. The problem is not with the State law; the problem is with the implementation of the Endangered Species Act by the Fish and Wildlife Service. Implementation of our State law, while it would be protective of owls, is not a single-purpose law. It is a balanced law which provides for public resources protection coincident with the maintenance of a viable industry; however, the Fish and Wildlife Service has taken the position that the State as a

permitting agency is also liable for any take of owls that occurs by the permittee.

While we disagree with that legal interpretation and, in fact, are instructing all of our permittees that the permits they might get from us do not allow them to violate Federal law and they have independent obligations under that Federal law, Fish and Wildlife Service's position nevertheless has a rather chilling effect on the operation of State law. It increases the degree of caution that we exercise in view of potential court challenges in State court.

Although I am familiar with the criticisms which you are going to hear tomorrow and which we have heard elsewhere, I don't think those can fairly be attributable to either State law or my agency's implementation of that law but, instead, result from the uncertainties of the implementation of the Endangered Species Act, recognizing, in Fish and Wildlife Service's defense, that they are making at the uncertainty of conservation on the Federal lands and not knowing quite what to demand of the non-Federal lands; therefore, they are demanding quite a lot.

Mr. VOLKMER. Do you have correspondence in that regard from the Fish and Wildlife Service?

Mr. PARTRIDGE. Yes. The "take" guidelines that Mr. Turner referred to this morning specifically state their position that the State, as a permitting entity, would be liable for take by the permittees.

Mr. VOLKMER. Yes, but Mr. Turner didn't tell us that this morning.

Mr. PARTRIDGE. It took a while for us to find out, as well. But we do not agree with that position.

Mr. VOLKMER. All he did was tell me that the Fish and Wildlife Service wasn't telling anybody not to cut any trees on private land. That's what he told me. And then when I read the statement of the person from Washington, it was State DNR, so I dropped it. I wish I had known what I know right now when Mr. Turner was still here, because I would have gone into it.

Mr. PARTRIDGE. It's an interesting debate.

Mr. VOLKMER. If you would provide me with that documentation from them, I'd like to have that. Maybe we can pursue it further.

The information follows:



WASHINGTON STATE DEPARTMENT OF
Natural Resources

BRIAN BOYLE
 Commissioner of Public Lands

OLYMPIA, WA 98504

June 10, 1991

The Honorable Harold Volkmer, Chairman
 Subcommittee on Forests, Family Farms, and Energy
 House Committee on Agriculture
 1301 Longworth House Office Building
 Washington, D. C. 20515-6001

Dear Congressman Volkmer:

At your recent hearing concerning spotted owls and federal forest management, you questioned me about the relationship between the prohibition on "take" of the threatened owl and Washington State's forest practices regulations. You were surprised at my portrayal of the U.S. Fish and Wildlife Service's position, that the state in granting a state forest practices permit became liable for any taking of owls by a state permittee. You requested documentation of this position, which I am here providing.

This is an important issue in that the state's flexibility in granting state permits is likely to be strictly constrained by the USFWS' take guidelines if the state believes it is liable for permittees' potential take.

We include the following language in every forest practices permit potentially affecting owls: "Compliance with this permit does not ensure compliance with the Endangered Species Act or other federal law."

Even without liability for permittees' take, our strong state forest practices act and state environmental policy act have created requirements and restrictions for nonfederal landowners, all linked directly to federal actions under the Endangered Species Act.

We appreciate your interest in this issue and will cooperate in any way with you and your subcommittee in addressing our concerns.

Sincerely,

Craig E. Partridge, Director
 Policy/Research and Development

Enclosure:

"Procedures" document (cover page; contents page; page 13, note lines 1-4, paragraph 3)
 Letter dated November 20, 1990: USFWS to Arden Olson (note paragraph 2, page 2)

Equal Opportunity/Affirmative Action Employer

**PROCEDURES LEADING TO
ENDANGERED SPECIES ACT COMPLIANCE FOR
THE NORTHERN SPOTTED OWL**

Including:

- o Formal Section 7 Consultation Guidance**
- o Interim Recovery Strategy**
- o Conservation Planning for Non-Federal Actions**
- o Guidance for Incidental Take**

**U.S. Fish and Wildlife Service
Region 1
July 1990**

TABLE OF CONTENTS

INDEX

Introduction.....	1
Purposes.....	1
Background.....	1
Section 7 -- Formal Consultation for Federal Actions.....	1
Sections 9 and 10 -- Take for Non-Federal Actions.....	2
Section 4 -- Recovery Strategy.....	3
Discussion and Examples.....	3
Formal Consultation under Section 7.....	3
Incidental Take Guidelines under Sections 7 and 10.....	9
Habitat Conservation Planning under Sections 9 and 10.....	12
Recovery Planning under Section 4.....	14
Conclusion.....	15

TABLES

Table 1: Examples of Reasonable and Prudent Measures Under Consideration in Incidental Take Statements for Federal Actions as Well as Applicable Conservation Recommendations.....	6
Table 2: Calculations to Develop Incidental Take Guidelines Based upon Home Range Size by Physiographic Province.....	11

APPENDICES

Appendix 1: Biological Assessment Information.....	1
Appendix 2: Biological Opinion Format.....	5
Appendix 3A: Example Conservation Recommendations Under Consideration if the ISC Strategy serves as basis for Section 7 Consultation.....	6
3B: Example Conservation Recommendations under Consideration if the ISC Strategy does not serve as the basis for Consultation.....	8
Appendix 4: Recovery Strategy.....	11
Appendix 5: Interagency Agreement 1990.....	12

6. the plan will be implemented.

The third item above generally requires the development of an implementing agreement, which is a legal document binding all implementing parties to the proposed conservation plan.

The Service must also address the National Environmental Policy Act (NEPA) in the ESA Section 10(a)(1)(B) permit process. In most cases the Service delegates the development of information needed for preparation of NEPA documentation to the applicant to expedite the process. In general, if the incidental take permit will result in a significant net loss of individuals and/or habitat, an EIS likely will be required. This often adds 9 months to 1 year to the process. Conversely, if the permit will result in a net gain or insignificant net loss of individuals and/or habitat, an environmental assessment leading to a finding of no significant impact likely will be sufficient for NEPA compliance. In such a scenario, a permit could be considered for issuance in as little as 3 months.

Section 10 and Northern Spotted Owls

Timber harvest on State and private lands may result in the incidental take of northern spotted owls. Because the States authorize private timber harvest, they may be party to take on private lands, as well as on State lands. In the absence of an incidental take permit, this take would be a violation of ESA. The implications for the northern spotted owl are considerable since a large portion of the total harvest volume in the owl's range comes from non-Federal lands. At least in California, important numbers of owls occur on private lands; there are fewer owls on private lands in Washington and Oregon.

There are two approaches to managing the Section 10 process for spotted owls. One is for the individual landowner to prepare an HCP and apply for an incidental take permit for his lands. The second is for the State to prepare an HCP for all state and private timber lands. The Service would prefer to proceed with the latter approach, since it would add efficiency to the conservation planning process.

The States of Washington, Oregon, and California are at different stages in this process. In Washington and Oregon, the Service has notified the States of their potential responsibilities and initial informational discussions are beginning. In California, the State Board of Forestry, Department of Forestry, Department of Fish and Game, industry representatives, and the Service have been meeting regularly since November, 1989.

The State of California is planning to prepare an HCP covering timber management throughout the range of the subspecies in the state. The California HCP and accompanying NEPA process probably may not be completed until sometime in 1991. During the interim period, the State would attempt to prevent take through a review process that supplements its existing timber harvest permit procedure. In the meantime, large industrial timber firms have indicated their intent to proceed with individual HCPs.

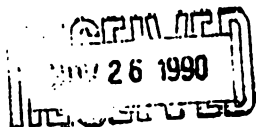


United States Department of the Interior

FISH AND WILDLIFE SERVICE

Fish and Wildlife Enhancement
2625 Parkmont Lane SW, Bldg B
Olympia, Washington 98502
206/753-9440 FTS 434-9440

November 20, 1990



Arden Olson, Division Manager
Forest Regulation and Assistance Division
Washington Department of Natural Resources
1007 So. Washington EL-03
Olympia, Washington 98504

Dear Mr. Olson:

I am in receipt of a copy of the November 13, 1990, letter from John Pierce (Washington Department of Wildlife) to Tom Robinson of your staff, pertaining to Forest Practice Applications (FPAs) within the Cabin Creek spotted owl territory. The Fish and Wildlife Service is concerned that your agency considers this territory as a non-pair site, and that the Department of Natural Resources has not classified this site as a Class IV special, as is required under WAC 222-16-050 (1)(b)(i).

The Fish and Wildlife Service concurs with Washington Department of Wildlife's conclusion that the occupancy of the Cabin Creek site by a pair of owls in 1989 and the successful breeding by the pair in 1988 qualifies this as an owl territory subject to the provisions of the Fish and Wildlife Service's take guidelines.

It should be further noted that while the Cabin Creek female was not located during 1990 survey efforts, the male of this pair (which was tagged with a radio-telemeter in 1988) has demonstrated strong site fidelity, indicating territory maintenance. This point alone would subject this individual owl to the provision of take under Section 9 of the Endangered Species Act. As you are aware, take under the Act pertains to individuals, not just pairs or populations of species, that are listed as threatened or endangered.

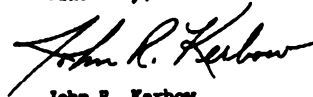
The issue of protecting single owls that have established territories is not new. This issue and the protocols for determining whether or not a single should be considered a resident/territorial owl were addressed in the Washington Department of Wildlife's *Draft Recommendations for Interim Procedures to Process FPAs for Compliance with Fish and Wildlife Service's Take Guidelines* (August 20, 1990). Members of your staff and individuals from the Olympia Field office assisted the Department of Wildlife in the preparation of these interim procedures that were provided to the Department of Natural Resources. Not only did the Service assist with the development of the procedures, we verbally conveyed the need for the Department of Natural Resources to consider territorial singles as they apply to the take guidelines when processing FPAs.

The Fish and Wildlife Service is soon to release survey protocols for the spotted owl, including the treatment of single owls under the Service's take guidelines. Until these protocols are released, we recommend that your agency adhere to the Washington Department of Wildlife's Interim Procedures. Please be advised that it is the opinion of the Fish and Wildlife Service that territorial/residential single owls would be subject to the take guidelines and that the Department of Natural Resources should assess impacts to individual owls accordingly when reviewing FPAs.

By way of this letter, the Service is not only notifying the Department of Natural Resources of the possible conflicts with the Service's take guidelines if any FPA is permitted within the 1.8-mile median territory of the Cabin Creek spotted owl site; we are also alerting our Division of Law Enforcement of a possible take violation.

Please notify this office of any decision made by your agency on FPAs located within the Cabin Creek Area.

Sincerely,



John R. Karbow
Acting Field Supervisor

jlm/gb

c: DNR, (Robertson)
FWS, Bellevue (Law Enforcement Div.)
FWS, Moses Lake Office
FWS, Portland (Region 1, ARD-FWE)
FWS, Portland (PFO)
FWS, Sacramento (SFO)
Governor's Timber Task Force (Elliot)
WDW, Olympia (Switch)
WDW, (Pierce)
WDW, (Rays)
WDW, Olympia (Nongame)

Ms. SPROUL. Mr. Chairman, I would just second those remarks from Mr. Partridge on behalf of California. We are also finding that there is increasingly a push to harvest lumber on private, small-owner landholdings as our larger industrial bases are stopped either in Federal sales or through challenges in State court. Part of California's action in response to the Fish and Wildlife Service's debatable call in terms of State liability has been directed at assisting those small landowners so that they don't bear that full burden and making sure that the regulatory system that we do have in place is recognized by the Fish and Wildlife Service. To date we haven't been successful in that, either.

We have conservation efforts underway out there, and we need to help the small landowners at the same time.

Mr. VOLKMER. Before I forget, I'd like to include in the record a letter from the Governor of the State of Oregon, Barbara Roberts. [The letter appears at the conclusion of the hearing.]

Mr. VOLKMER. My last observation before we let the others ask questions is that I don't have a magic wand. I wish I did. I think what everybody would like to have is sufficient ancient forest or old-growth protection and spotted owl protection, and yet they want enough trees left to sustain the timber industry that you have out there. I don't think that if you do the first two that you're going to have the third. I think that you will have—I think we'll be able to come up with legislation that will sustain a timber industry, but I don't think it will be nearly to the extent that you presently have and have known for the last several years.

I think it is incumbent upon all of us to try to reach a solution for what we do for the people that are going to be adversely affected, because we are going to have a lot of people that are going to be adversely affected.

With that, I'll recognize the gentleman from Washington.

Mr. MORRISON. Mr. Chairman, that's an astute statement. I guess that's why you're chairman.

First, I want to thank both you and Craig for the very kind words. I want to assure you that everyone up here at the podium is, in fact, part of the team that is attempting to work this out. We are enormously proud in Washington State of the response of the Governor's office, as well as our commissioner of public lands. We are pleased to have you, of course, as part of the recovery team effort. We obviously are placing a tremendous amount of faith in what that recovery plan looks like in providing some relief from the rather impossible position in which we find ourselves.

One of the efforts that I would like to have indicated on the record is the Governor's effort at value-added. Rich, I was wondering if you could make a comment for the record on how you have implemented that program and any successes to date.

Mr. NAFZIGER. Thank you, Congressman.

In 1989, in anticipation of a declining supply of timber, we made the decision to establish a program to try to get more value out of each log harvested, and it is a value-added program at our department of trade. It runs a couple of million a year. We significantly increased the budget on it this year.

Basically we have a couple of different components of it. The first component is that we have basically what are industrial ex-

tension agencies that go out and work with millowners and try to identify new products and new markets for those products in the secondary wood processing industry. We have worked with over 120 firms to date, and I think have helped save some jobs and locate some new market opportunities.

We are also trying to look at the future of the industry and trying to identify markets overseas and products to meet those market demands, as well as investors to invest in the technology to make those products in our State, because we are having a little trouble getting investment capital.

It is a major effort of the Governor.

I really understand that you are in a very tough situation in trying to balance the three goals that the chairman made, and my only point would be we have to have a timber industry. We need some basic level of supply to make this value-added effort viable. You helped this with the log export restriction last year, and that's going to put 350 million board feet of timber that would not have otherwise been there into domestic processing, from which we can build a base for this secondary processing effort. We need at least some level of supply from Federal lands to be able to build on that.

Thank you.

Mr. MORRISON. One of our goals, of course, in the final package is certainty, and that's really certainty I guess for everyone—both sides of the issue. Our problem is, as the chairman has indicated, something that can still have a timber industry, not perhaps the timber industry we know now. The important thing is that it will be consistent and it will be there and there will be assurance.

Craig, I wanted to try to weave through the fabric a little more. Does the State Forest Practices Act reference the Endangered Species Act?

Mr. PARTRIDGE. Yes. The State Forest Practices Act has a tie-in with our State Environmental Policy Act, which is a junior NEPA, if you will. Certain forest practices are subject to additional review and restriction under that State Environmental Policy Act. Of those are lands known to contain the nest or breeding grounds or breeding pair of a federally listed species and/or the designated critical habitat of that species.

Practices on such lands are thrown into a different pile and get additional review and presumably a greater level of conditioning or even denial.

Mr. MORRISON. And that permitting process then under SEPA is what the Fish and Wildlife Service has fallen back on then to say you are then part of the permitting process and therefor all of our restrictions apply?

Mr. PARTRIDGE. Yes. It is still a permitting process under the Forest Practices Act, but, having come through a SEPA tunnel, then you make a substantive decision that in our view still ought to be governed by the balancing tests of State law, but that's the one Fish and Wildlife Service—

Mr. MORRISON. I would see that as almost a penalty for the fact that we have been progressive. I would venture California is in the same box. In fact, it provided an additional layer of protection, and now we are being hit over the head with it.

Mr. PARTRIDGE. I was interested in Ms. Sproul's plea for better coordination between the State and the recognition of the efforts the States have made. We would like to see that, as well.

Mr. MORRISON. Thank you. That's a good point.

I would like to think that we have been progressive in this whole arena. In fact, the two States represented at the table, plus the State of Oregon, certainly have been progressive. It bothers me a little now that we are being trounced upon in this whole environmental arena, but I guess that's something we can live with and we can work our way through.

Thank you, Mr. Chairman. And, by the way, thank you for your patience on something that—the worst thing that happened today was the announcement that Missouri—

Mr. VOLKMER. We have a few trees.

Mr. MORRISON. I know, but it was announced this morning that you didn't have any, and I feel badly about it.

Mr. VOLKMER. The gentleman from Indiana.

Mr. JONTZ. Thank you, Mr. Chairman.

I want to follow up with Mr. Partridge with just a couple of quick questions.

Have there been permits denied?

Mr. PARTRIDGE. Yes.

Mr. JONTZ. How many?

Mr. PARTRIDGE. I don't have the number. What we have done most recently is—the review process under our State Environmental Policy Act allows us to gather more information from the applicants, so basically we have sent those who are in owl country back out to do surveying. The substantive decision on most of the permits in those areas is going to be made within the next few months.

Mr. JONTZ. So has there been anybody permanently denied, or are these just—

Mr. PARTRIDGE. Yes. There have been denials—a substantial number of denials. There have been conditions placed on permits. There have been delays. The kind of impact that worries me most, however, Mr. Jontz, is the landowners who just throw up their hands and throw in the towel and don't even come in for an application because they are aware of the restrictions that are growing. Those impacts we will never have a chance to record.

I'm also concerned about landowners who are not yet in owl territory but are worried that they might be some day and are thus speeding up their harvest. We have heard a number of references to that today. It is leading to an unsustainable rate of harvest on private lands that certainly we would like to gain some control over.

Mr. JONTZ. I don't know if it is a simple thing to provide for the record the number of permits. The way you describe it, it is a pretty serious situation.

Mr. PARTRIDGE. Yes. I think the number is in the hundreds.

Mr. JONTZ. In the hundreds?

Mr. PARTRIDGE. Yes.

Mr. JONTZ. Well, we certainly don't get that impression from Fish and Wildlife Service.

Mr. PARTRIDGE. I'm aware of that.

Mr. JONTZ. We have had conversations with them about this matter, and that's not the impression we get.

Mr. MORRISON. Would the gentleman yield?

Mr. JONTZ. Certainly.

Mr. MORRISON. There is a human side to this. I have had a number of people in my office that, in fact, pointed out that they can't pay State taxes and they can't pay their property taxes and they're about to lose their land and it is the only source of income. They've got a few trees within a circle, or a few acres within a circle, that probably includes 15, 20, or 30 different landowners. Those are the people we want to encourage to be producing for this future forest, and they are in a world of hurt right now. I don't know what the answer is to that.

I thank the gentleman.

Mr. JONTZ. Reclaiming my time, let me just make a general comment to each of you, which is I think your statements were excellent. The impression I have is that the State officials have been very forward-looking in terms of dealing with these problems. I guess you are pretty close to the situation and your statements today certainly indicate you have given a lot of thought to the situation.

With regard to replacement of county revenues, I guess the formulas under which these revenues are returned is in our jurisdiction; is that correct? Who has jurisdiction on this matter?

Mr. VOLKMER. We do.

Mr. JONTZ. So the Appropriations Committee has done a 1-year fix, but we know that's not permanent.

I have had language that I have passed out to people for a number of years, and no one has really run with it—and maybe it is because it is not a good idea. It would change the allocation. It would basically freeze the existing amount of revenue going to counties at 90 percent of what they've gotten over some historic period, and then allocate it out on a per acre basis, which is obviously a flat figure.

I would dare say that for most forests in region 5 and region 6 the number of acres is going to stay relatively constant compared to the volume of timber sales. It is not a very complicated idea. Basically it is locking in your existing revenues, which I think should have been done a couple of years ago. If I were in your seat I would have been in favor of that—maybe last year would have been a good year to have locked it in.

At any rate, how you pay for it is another matter, but I think we do have some choices in that regard. I've got this language that I have shown to people, and I could certainly dig it out of the files. It is not all that difficult.

Any response to that?

Mr. NAFZIGER. I think it's a very good idea, and we appreciate your concern very much, but the issue to keep in mind is that the formulas and the other vehicles fall short when they tie the receipt to the particular forest rather than the region. Yours wouldn't suffer from that because it would be on a per acre basis and wouldn't have anything to do with the cut, and so we really appreciate your understanding of that weakness of the other vehicles.

Mr. JONTZ. With regard to the economic provisions, you have all expressed the belief that JTPA as it now exists is not enough and we have to go beyond that. You have some very well thought out proposals. I guess my question is: How do we get all the parties together at this point—the three Governors and the congressional delegations and the committees? You know, we don't have jurisdiction over most of the economic provisions. Most of them would probably be under Education and Labor, I think. There are some things we can do which we have done, with Mr. Morrison's initiative, but I would be interested in your views as to how you see us proceeding to putting together one package which all parties support.

I had hoped—and, Rich, we've had this conversation before—that maybe the Governors could get together and put together a package, but I don't know. At this point we may have moved along to where the group that is working on that needs to be much larger. Obviously the congressional delegation has to be involved, or should be. But how do you see us getting from where we are to where we need to be?

One thing about economic provisions is, with regard to some of the scientific components of this bill, we can set up a committee and they can do some work and come back to the Congress in a year or two or three, and, in essence, we can incorporate some time. But my bet is that, with regard to economic components, it is going to be written now. That means it has to be over to Education and Labor and they've got to have some hearings and we've got to have a proposal that can be married with whatever comes out of this committee and Interior relatively soon. That's not to say you couldn't do it later if it took more time, but I think it really should be a package.

I suspect it is not going to be something where we revisit it in a couple of years. I think we ought to do it right the first time because these transitions aren't going to start with the passage of this legislation, as you all know very well. As soon as we can get a package like this in place, I'm for it. I think you have all been very persuasive in terms of the needs that exist. My only concern is how we get from where we are to where we need to be.

If you've got some thoughts or ideas, I would welcome them because I have pledged on numerous occasions to do what I can to go to bat for the economic provisions that the communities of the States involved feel are the right provisions. We're getting closer to that point, and if there is anything that this Member can do—and I think that would be true of others—to help in that process, I certainly would like to.

Mr. MORRISON. Would the gentleman yield on that point?

Mr. JONTZ. Yes.

Mr. MORRISON. Governor Gardner is chairman of the National Association of Governors, and I'm wondering—Rich, you had a marvelous package you presented to our delegation on all the elements of unemployment compensation and the things the gentleman from Indiana is referring to. Has there been any effort to put that together with other affected States?

Mr. NAFZIGER. No. I think we have been short-sighted on that. We communicate pretty regular with the three Governors' staff.

There's no reason why we couldn't try to expedite pulling something together for the three States and then come back here and meet with you.

We've worked very closely with organized labor on the labor parts, and they are right on the money in terms of the components that deal with worker retraining and the industry labor bill. But I think we'd welcome—what do you think? We could get the three Governors and—

Mr. MORRISON. I would add only that now we have a number of States that are expressing interest in this package, as we look now at the southern version of the owl. So I'd say that the influence of the Governors' group is expanding instead of contracting as we go through this.

I thank the gentleman for yielding.

Ms. SPROUL. I think we should be viewing this as precedent-setting to some extent. I think the biggest concern we would have would be in terms of long-term diversification of rural economies and recognizing noncommodity outputs from those Federal lands that are there, so that there is a different basis, if you will, to calculate the support, and JTPA is not enough to sustain that over time.

We would like to coordinate, to attempt to come up with something that we think would be helpful for California's other regions, as well. We also, of course, are looking at these kinds of impacts in the Sierra in the sense of how ultimate either protective or listing actions affect those areas. So we have a broad area to address.

I am aware that Arizona and New Mexico are looking at spotted owls in some form or fashion, as well. It is extremely important.

Mr. NAFZIGER. I think it would be a real good idea. For instance, we extended unemployment benefits for up to a year for timber workers, all the workers in 20 counties which are heavily timber-dependent, and for all forest-product workers throughout the State if they are engaged in training, and then we increased the number of community college slots available to them. We were able to do that.

There is a process going on through Congressman Downey's committee to extend unemployment benefits, and we would like to work with this committee and the other—I think it might be more appropriate to work with the committees who are looking at the overall package so that we can tailor it to what we have already designed to some extent. That way the States can take some responsibilities and the Federal Government can take some responsibilities, and we can sort of recognize that we have areas where our jurisdictions are better at it than others.

After this hearing what we will do is talk about putting something together to present back to you.

Mr. JONTZ. You have pointed out, of course, quite properly that the Ways and Means Committee has jurisdiction over unemployment compensation, so they need to be involved.

Mr. MORRISON. I thank the gentleman for yielding.

Mr. JONTZ. I'm reclaiming my time. I'm sorry. I didn't mean to cut in on you.

Mr. MORRISON. That's OK.

Mr. JONTZ. I think that we're getting a lot of very helpful suggestions, and that it will take some time to put these all together in some sort of package. Obviously there are different circumstances in different communities, and we want to have some flexibility in the package for the States and for the communities to recognize local needs. I think it has to be one package at some point, and it is going to take some time to get those things worked out. I don't know how much time we have, but I just think that, as this legislation moves along, it may be harder to get the attention of some of the committees that haven't been holding hearings on this for so long. The sooner we start, the better off we are.

I don't think I have any other questions for the panel. I yield back my time.

Mr. VOLKMER. I would just like to comment further on this idea of job training and worker assistance and possible relocation.

As I look at it—and maybe I'm seeing it a little wrong—it is just not the worker that is involved here, is it? You've got the millowner, the grocery store owner, the gas station owner. If you don't have any workers, if you retrain them and they go to Seattle or they go to Sacramento or they go to San Francisco or some place and they leave town, what happens to the rest of the town? It goes a lot further than just JTPA. I just think that we've got to really think this thing through, and I don't think it is going to be very inexpensive. If we really want to do it right, it is going to be fairly costly, and then the next thing is where we get the money, because under our new budget agreement we made last year it is going to be difficult to find that money.

The chairman of the Budget Committee is also a member of this subcommittee. Maybe he can be helpful in some way of finding it.

I will now recognize the gentlelady from the State of Washington.

Mrs. UNSOELD. Thank you, Mr. Chairman.

I'd just comment that I think it would be helpful for us to have the Governors present a package, because the different elements of displaced worker assistance are divided among some of the committees here.

The question I would ask you, Rich, is: Does the State have some additional experience other than what you referred to here about JTPA being a short-term and not a long-term skill upgrading situation as to why you don't think that's the proper vehicle for funneling a major program? A number of the members of the Education and Labor Committee also share that view, so I'm wondering if there is some experience in the State that I should know about.

Mr. NAFZIGER. The problem with the funding is that it has very—there are strict limits on how much can be spent per person, first of all, and it doesn't amount to much. I think the per capita estimate we came up with is that \$2,600 is the estimated cost per person for training, and it provides no income support while you are in training. The discretionary grant we have is going to amount to less than 52 weeks of training available due to time constraints.

Self-employed people and people of exhausted unemployment or people who are ineligible because their mill has been off and on all

year in the logging operation aren't even eligible. It just isn't designed to be a long-term program.

The Trade Act is a program that is designed to move people. The Trade Act was a bargain. It was like we're going to allow imports of products to come in, and in exchange for that we'll make sure that you can transition to another industry and we're going to make sure you can support yourself while you are in transition and get enough money to make the training. I think that's the kind of thing we are looking at here because these are people in rural areas who often don't have skills which are saleable. It is going to take a bigger effort than that.

I'm not being very specific because it is late in the day, but we do have a lot of experience in that and can give you some more details of what our problems have been, and I'll make a point of doing that.

Mrs. UNSOELD. Thanks.

Craig, it was just about 9 months ago when, with considerable incredulity, we listened to your agency begin to tell us about the effect on private landowners. We couldn't believe it.

When you said in your statement—which, by the way, I think was very good—that a congressional piece of legislation should also consider the other lands other than just on the national forest. Are you suggesting that if we create a temporary situation by map and say certain things can be done in one area or another while we have a scientific team coming up with a long-term plan, that we ought to just roll in the application of whatever that is to the State lands?

Mr. PARTRIDGE. I guess my concern is that, if you are going to create an interim situation in Federal legislation—

Mrs. UNSOELD. What I'm trying to get at is: How do we break for the States and private landowners the straitjacket that we are trying to break out of for the National Forest Service lands? What do you suggest we do to help you all break out of it?

Mr. PARTRIDGE. There are a number of different approaches. I understand the problem, whereas for Federal lands it is much easier to create a sufficiency situation since you control where the timber is harvested, whereas you wouldn't in non-Federal lands. However, you could provide guidance to Fish and Wildlife Service in their interpretation of the taking prohibition in certain areas that you would designate, whereas they would be free to operate as they are in other areas. That would be one approach.

Another approach would be to provide non-Federal landowners and the States, in general, with better incentives than have been provided to this point to begin habitat conservation planning. There may be some help that could be provided there, that would get us down the road the way we want to be going, toward a destination that looks desirable to us and also gives us a little relief in the meantime the way the Federal land managers appear they may have.

Mrs. UNSOELD. Thank you.

Mr. Chairman, I just want to thank you for your sticking with us. I guess you still have tomorrow.

Mr. VOLKMER. Yes. We start at 10 o'clock tomorrow morning.

Mrs. UNSOELD. Thanks very much, Mr. Chairman.

Mr. VOLKMER. Hopefully we'll finish by 6 o'clock.

Thank you very much. I appreciate the panel being here today. You've been very helpful. I'm sorry it took so long to get to you, but we appreciate your testimony and look forward to working with you for some type of economic assistance for these communities and for the people.

Thank you very much.

Ms. Sproul, don't forget about the Sierra Nevadas. I want to know.

Ms. SPROUL. I will not do that. Thank you, Mr. Chairman, for the reminder.

Mr. VOLKMER. The subcommittee is in recess.

[Whereupon, at 7:50 p.m., the subcommittee recessed, to reconvene at 10 a.m. on Thursday, May 30, 1991.]

[Material submitted for inclusion in the record follows:]

STATEMENT OF CONGRESSMAN BRUCE F. VENTO
BEFORE THE SUBCOMMITTEE ON FORESTS, FAMILY FARMS AND ENERGY
COMMITTEE ON AGRICULTURE
HEARING ON LEGISLATION RELATING TO OLD GROWTH FORESTS
WEDNESDAY MAY 29 1991

THANK YOU, MR. CHAIRMAN, FOR GIVING ME THIS OPPORTUNITY TO TESTIFY BEFORE YOUR SUBCOMMITTEE. I APPRECIATE YOUR HOLDING THIS HEARING AND INCLUDING H.R. 1590, THE ANCIENT FOREST ACT, WHICH IS THE BILL THAT I INTRODUCED TO ADDRESS THE CRISIS FACING OLD GROWTH FOREST-RELATED ECOSYSTEMS, WORKERS AND THE ECONOMY OF THE PACIFIC NORTHWEST. TODAY'S HEARING IS AN IMPORTANT STEP TO RESOLVING A VERY URGENT PROBLEM THAT IS AFFECTING THE LIVES OF THOUSANDS OF PEOPLE IN THE PACIFIC NORTHWEST.

OPPONENTS OF MY PROPOSED ANCIENT FOREST ACT CLAIM THAT IT WOULD COST TOO MANY NORTHWEST TIMBER JOBS. I DISAGREE. TIMBER JOBS ARE BEING LOST TODAY BEFORE ANY LEGISLATION HAS BECOME LAW, AS THE ECONOMY OF THE PACIFIC NORTHWEST CHANGES AND BY VIRTUE OF THE LACK OF NEW LAW AND POLICY. BY SOLVING THE CURRENT CRISIS, H.R. 1590 COULD ACTUALLY SAVE SOME SUBSTANTIAL TIMBER JOBS THAT MAY WELL BE ELIMINATED BY APPEALS, LAWSUITS AND INJUNCTIONS ASSOCIATED WITH THE PRESENT OLD GROWTH FOREST-NORTHERN SPOTTED CRISIS. ABSOLUTELY, THE WORST SCENARIO THAT COULD OCCUR FOR THE WORKERS AND COMMUNITIES OF THE PACIFIC NORTHWEST WOULD BE FOR THE NATIONAL GOVERNMENT TO BE NON-RESPONSIVE WITH NO NEW POLICY AND NO LEGISLATION AND, THUS ALLOW THE CURRENT CRISIS TO CONTINUE WITHOUT PREDICTABILITY AND WITHOUT STABILITY, WITH JUST THE PRESENT UNCERTAIN SITUATION PERSISTING. PEOPLE ARE SUFFERING TODAY NOT BECAUSE OF THE LEGISLATION BEFORE YOU BUT BECAUSE WE HAVE WAITED SO LONG TO MOVE A LEGISLATIVE SOLUTION FORWARD.

ADMINISTRATIVE POLICY MAKERS HAVE DELIBERATELY DECIDED NOT TO BE PART OF A WORKABLE SOLUTION AND MANY, TOO MANY, HAVE CLUTCHED TO THEIR HIGH MORAL GROUND OR DENIED THE REAL PROBLEMS THAT EXIST.

LET'S LOOK AT WHAT IS REALLY HAPPENING TO THE TIMBER JOBS IN THE NORTHWEST. WE ARE LOSING JOBS BECAUSE OF THE ONGOING MODERNIZATION OF MILLS. WE ARE LOSING JOBS BECAUSE THE TIMBER INDUSTRY EACH YEAR CONTINUES TO EXPORT 3.6 BILLION BOARD FEET OF RAW LOGS TO JAPAN AND OTHER ASIAN COUNTRIES INSTEAD OF SENDING THEM TO AMERICAN MILLS THAT EMPLOY AMERICAN WORKERS. AND MOST OF ALL, WE ARE LOSING JOBS BECAUSE THE PAST TWO ADMINISTRATIONS HAVE REFUSED TO ALLOW THE FOREST SERVICE AND BUREAU OF LAND MANAGEMENT TO FOLLOW THE ENVIRONMENTAL LAWS OF THIS NATION WITH THE DEVASTATING RESULT THAT THE COURTS HAVE FOUND THAT THE AGENCIES ARE OUT OF COMPLIANCE WITH THE LAW. THE COURTS HAVE HAD LITTLE REAL CHOICE GIVEN THE FACTS BUT TO SHUT DOWN MUCH OF THE FEDERAL TIMBER PROGRAM IN THE NORTHWEST. IF THE LAND MANAGEMENT AGENCIES HAD FOLLOWED THESE LAWS FROM THE BEGINNING, MUCH OF THE PRESENT HARDSHIPS COULD HAVE BEEN TEMPERED.

NOW A CRISIS IS AT HAND AND WE ALL FACE GRIDLOCK OVER THE MANAGEMENT OF THE PACIFIC NORTHWEST'S FORESTS. THE ONLY WAY TO PREVENT FURTHER HARDSHIP IS TO PROCESS A REAL LEGISLATIVE SOLUTION.

ANY SUCH SOLUTION MUST PROTECT MUCH OF THE REMAINING OLD GROWTH FOREST ECOSYSTEM. THE AMERICAN PEOPLE SIMPLY WILL NOT ALLOW THE REMAINING REMNANTS OF THIS AMAZING RESERVOIR OF THE NATION'S BIOLOGICAL DIVERSITY TO BE DESTROYED. THE ANCIENT

FORESTS OF THE NORTHWEST ARE A NATIONAL TREASURE THAT BELONG TO ALL AMERICANS AND WE HAVE NO CHOICE BUT TO ENSURE ITS SURVIVAL. HOWEVER, THE TEST IS WHETHER WE CAN SAVE THESE FORESTS WHILE AT THE SAME TIME BRINGING A LEVEL OF CERTAINTY AND STABILITY TO THE TIMBER INDUSTRY AND ECONOMIC RELIEF TO WORKERS AND COMMUNITIES. THIS IS WHAT MY PROPOSAL, THE ANCIENT FOREST ACT, ATTEMPTS TO ACCOMPLISH.

FIRST, H.R. 1590 FOCUSES ON THE ENTIRE OLD GROWTH FOREST ECOSYSTEM INSTEAD OF A SINGLE SPECIES. IT WOULD ESTABLISH A 6.3 MILLION ACRE ANCIENT FOREST RESERVE SYSTEM IN OREGON, WASHINGTON AND NORTHERN CALIFORNIA. THE SECRETARIES OF AGRICULTURE AND THE INTERIOR WOULD HAVE THREE YEARS TO DESIGNATE THE RESERVE SYSTEM. THEY MUST BASE THE BOUNDARIES OF THE RESERVES ON THE RECOMMENDATIONS OF A LEGISLATIVELY MANDATED SCIENTIFIC COMMITTEE. IF THE SECRETARIES DEVIATE FROM THE COMMITTEE'S RECOMMENDATIONS, THEY MUST NOTIFY CONGRESS AT LEAST 30 DAYS BEFORE DESIGNATING THE RESERVES. AFTER THE RESERVE SYSTEM IS DESIGNATED, ONLY CONGRESS CAN CHANGE THE BOUNDARIES. DURING THE THREE YEAR INTERIM PERIOD THAT IT WILL TAKE TO ESTABLISH THE RESERVES, THE BILL WOULD PROTECT APPROXIMATELY 8 MILLION ACRES OF LAND TO ENABLE THE SCIENTIFIC COMMITTEE TO HAVE A LARGE ENOUGH LAND BASE TO CREATE THE 6.3 MILLION ACRES OF RESERVES.

SECOND, THE MEASURE WOULD ESTABLISH AN ANCIENT FOREST RESEARCH PROGRAM DESIGNED TO ADVANCE THE LEVEL OF SCIENTIFIC KNOWLEDGE ON THE IMPORTANCE OF OLD GROWTH FOREST ECOSYSTEMS AND WOULD ADD THE PROTECTION OF THESE ECOSYSTEMS TO THE NATIONAL

MULTIPLE USE MANDATES OF THE FOREST SERVICE AND BUREAU OF LAND MANAGEMENT.

THIRD, THE LEGISLATIVE POLICY ENUMERATED IN THE BILL IS INTENDED TO PROVIDE CERTAINTY AND SOME STABILITY FOR THE WOOD FIBER INDUSTRIES ENABLING THEM TO PLAN FOR THE FUTURE. FOR EXAMPLE, THE BILL GUARANTEES FOR 3 YEARS AN ANNUAL TIMBER SALE LEVEL FOR REGION 6 OF THE FOREST SERVICE AND FOR THE BLM'S O&C LANDS.

FOURTH, THE BILL WOULD HELP WORKERS AND COMMUNITIES IMPACTED BY DECLINING TIMBER SUPPLIES. APPROXIMATELY ONE-THIRD OF THE BILL FOCUSES ON ECONOMIC RELIEF PROGRAMS FOR RURAL COMMUNITIES AND DISPLACED TIMBER WORKERS. THESE INCLUDE A SPECIAL FUND IN THE U.S. TREASURY OF \$30 MILLION A YEAR FOR 5 YEARS TO HELP DISPLACED WORKERS AND FOREST ENHANCEMENT PROJECTS THAT WOULD CREATE 10,000 NEW FORESTRY RELATED JOBS. EVEN WITHOUT THE PASSAGE OF AN ANCIENT FOREST BILL, THE ECONOMY OF RURAL COMMUNITIES OF THE NORTHWEST IS SURELY CHANGING. COMMUNITIES WILL HAVE TO BECOME LESS TIMBER DEPENDENT. THE ECONOMIC RELIEF PROVISIONS IN MY BILL WILL HELP THESE COMMUNITIES MAKE THE TRANSITION.

FIFTH, THE MEASURE ATTEMPTS TO ENHANCE THE EXISTING FORESTRY PRACTICES TO IMPROVE THE CAPABILITY OF NATIONAL FOREST LAND TO PRODUCE MORE TIMBER IN THE LONG-RUN AND TO PROVIDE TIMBER RELATED EMPLOYMENT OPPORTUNITIES IN THE SHORT-TERM.

MR. CHAIRMAN, I LOOK FORWARD TO WORKING WITH YOU AND YOUR SUBCOMMITTEE ON THIS LEGISLATION. THE PEOPLE OF THE NORTHWEST NEED FOR US TO END THIS CRISIS SO THEY CAN GET ON WITH THEIR LIVES AND BE PRODUCTIVE AND ALL AMERICANS EVERYWHERE NEED FOR US TO SAVE A TRULY AMERICAN HERITAGE, OUR LAST STANDS OF ANCIENT FORESTS. I WOULD BE PLEASED TO RESPOND TO A QUESTION OR TWO IF THAT IS WHAT THE CHAIRMAN AND MEMBERS WISH....

**Statement of Rep. Jolene Unsoeld (3rd - Washington)
Before the House Agriculture Subcommittee on
Forests, Family Farms, and Energy**

Hearing on Old Growth Legislation

May 29, 1991

Mr. Chairman, thank you for your leadership in pulling us together to review the legislation before this subcommittee. I appreciate your desire to get all the proposals, including the industry/labor bill, on the table.

I will not focus my short comments on any particular bill. I find all of them to contain elements that are important to resolving this complex and controversial issue, but none of them holds the ultimate answer.

The answer lies in breaking out of our traditional plodding, short-sighted approach to this issue. We must get creative -- incredibly creative -- if we hope to develop a balanced plan to manage and protect our federal lands. We can't simply divide the forest in two: half for clearcuts and slash burns and half for ancient forests. Let's mix it up.

There is no doubt in my mind: We need to protect some ecologically significant stands of old growth as part of riparian systems. What we do with the rest of the forest is where our creative juices and good old American ingenuity come into play.

I believe we should use Gus Kuehne's idea and put some of the forests on extended rotations of 200-plus years. We should use experimental forestry in other areas. We should make small cuts, odd-shaped cuts. We should harvest young stands to make them mimic old stands. We should rebuild our riparian systems to give them the strength to support diverse forest ecologies.

I'm excited about the possibilities. I am confident that should we adopt these creative strategies, we won't need the humongous reserves some people propose. We need to gather the best scientific minds in the U.S. to help us develop sound management plans for sustainable timber harvests and long-term ecosystem protection.

That's the goal, Mr. Chairman. A long-term, sustainable timber supply and a healthy forest ecosystem. I'm convinced we can do it. This hearing may help us take a huge leap in the right direction. Thank you.

THE STATEMENT OF
THE HONORABLE FRANK D. RIGGS

Thank you, Mr. Chairman, for holding this critically important hearing. As you know, I represent the beautiful First Congressional District of California.

On California's North Coast, there are many timber dependent communities. To area residents, the combined threat of Forest Protection Bills and the Spotted Owl Recovery Plan are the latest in a series of divisive issues. This region has become a war zone over resource use with citizens divided over one issue after another: clearcutting, harvest levels, cutting young trees, old growth protection, watershed impacts, mill mechanization, log exports, sustainable yields, ad infinitum. The resolution of these issues will ultimately define the meaning of good forestry, and affect the economic well-being not only of loggers and mill workers, but others in the local business community who are also dependent on the forest products industry for their paychecks.

Given these tensions, communities in my District risk being engulfed in anger and acrimony. What citizens of the North Coast need from Congress is reason and good judgement.

An interesting parallel can be drawn between the situation on the North Coast today and that of 23 years ago. The Redwood National Park was created in 1968 and later expanded to a total of approximately 120,000 acres. Heated debate ensued regarding both the cost to the Federal Government of acquiring the private land and the cost to the regional economy due to the reduction of the timber/property tax base

and lost industry. The estimates which Congress and the Administration finally accepted proved erroneous and the losses devastating. Ironically, the widely predicted, much quoted "inevitable decline in the Timber Industry" can be largely attributed to intrusive government regulation.

More recently, in the early 1970's, Congress passed the Endangered Species Act. In their wisdom, legislators realized that if this planet is to remain habitable, biological diversity must be preserved. In fact, the ecology of the entire planet must be viewed holistically as every facet is integral to the whole and interdependent with all others. Removal of even one element of an ecosystem can have unknown biological consequences, rob the future of scientific knowledge and steal from our children their natural heritage. There is no question as to the necessity for better environmental protection measures, including the preservation of Old Growth Forests.

However, we must always keep in mind the consequences of well intentioned actions taken in the interest of environmental protection. The harvesting of timber is vital to funding local governments, schools and roads. County Supervisors, Tax Assessors and other local government officials already face budgetary problems approaching crisis proportions. In addition, many Native Americans receive significant benefits from timber utilization.

Congress should consider that new forestry regulations

are at this moment being debated in Sacramento. We need to take into account the cumulative economic effect of those regulations and our potential actions as we consider any legislation related to changes in forestry practices.

As a former member of the State's Job Training Coordinating Council, I have been personally involved in providing funds for laid-off timber workers. While there have been successes, I know that job retraining is not a panacea for economic dislocation. There simply are not enough good jobs available in these rural communities. That is why my highest priority as the North Coast's representative is job retention and job creation.

There must be broad participation in drawing an economic blueprint for the future. My office is already working with community members as well as federal, state and local officials to devise incentives for economic diversification and the development of incubator projects such as hardwood production and marketing. These are ambitious plans that will have to be compatible with wise resource use and will require time to design and implement.

By looking carefully at pending Ancient Forest legislation as a possible vehicle to establish old growth reserves as Spotted Owl Habitat Conservation Areas, we in Congress can lessen the economic impact at the same time the beneficial effect to the environment can be multiplied exponentially. To provide economic certainty to the timber

industry, we must explore establishing minimum harvest levels on federal lands using forestry standards that maintain bio diversity as criteria. Meanwhile, the Timber Industry must return harvests to a sustained yield basis.

There can be no doubt that the region and the nation must have a viable North Coast timber industry. To accomplish this, the industry should be given supply certainty and regulatory stability, features conspicuously absent from current timber sale practices. Our economy, much like the environment, is dependent on the strength and continuity of many diverse yet interdependent segments. The United States needs a healthy timber industry to provide a part of our manufacturing base that keeps us globally competitive, stimulates other sectors of the economy and supplies our various housing, paper and other wood fiber requirements.

#####

STATEMENT OF CONGRESSMAN JIM McDERMOTT
 SUBCOMMITTEE ON FORESTS, FAMILY FARMS
 AND ENERGY
 May 29, 1991

Thank you, Mr. Chairman, for this opportunity to address the Subcommittee on the issue of the management of National Forests in the Pacific Northwest. It is my sincere hope that your work here, together with the efforts of other committees, will result in a credible and long-term resolution to this dispute that is tearing apart the Northwest.

We are facing these difficult decisions today not because of an owl, and not because of environmental extremism. We are here today because the forests of the Pacific Northwest have been badly mismanaged. Only a dramatic change in the way federal agencies oversee our public forests will assure that Congress will not face these same decisions again in the next few years. Any message to the contrary sells false hopes and impairs our ability to find a solution.

The Administration has been willing, to systematically violate the law, to lose one court decision after another on this issue, rather than help find the solutions. This record has made our job nearly impossible. Congress must be able to rely on the judgment of the professionals in the land management agencies. Yet the decisions made by the heads of these same agencies have left them wholly discredited.

Congress also must share responsibility for the problems we now face. In the past, Congress has set unrealistic timber harvest levels and interfered with the judicial process. We must devise a process where timber harvest levels are built from the ground up and are based on what the forests can sustain.

I believe legislation will have the greatest chance of succeeding if it adheres to the following principles:

--First, the more final decisions Congress makes about the management of the forests the greater certainty we will provide for the affected communities and the ecosystem.

--Second, we must focus on the needs of the Pacific Northwest. Any attempts to resolve conflicts in other regions of the country will only confuse and delay critical decisions about the Northwest.

--Finally, the less effort Congress expends on rewriting existing laws, the greater chance we will have of enacting successful legislation. These questions must be decided separately from our efforts to help the Pacific Northwest.

Mr. Chairman, what the Pacific Northwest needs more than anything else is responsible leadership. I thank you and the Subcommittee for your interest and involvement. I look forward to participating in any thoughtful process that attempts to reach a balanced solution.

(Attachment follows:)

JUDGE'S WISE WORDS

5-25-91

Politicians and loggers should listen and learn

FEDERAL District Court Judge William Dwyer's honest and eloquent words on the spotted-owl case tell politicians and timber-dependent communities what they don't want to hear, but must face sooner or later.

To bypass the environmental laws, either briefly or permanently, would not fend off the changes transforming the timber industry. The argument that the mightiest economy on earth cannot afford to preserve old-growth forests a short time, while it reaches an overdue decision on how to manage them, is not convincing. It would be even less so a year or a century from now.

Dwyer's latest ruling prohibits the U.S. Forest Service from making more timber sales in spotted-owl habitats while the agency takes the next 10 months to develop guidelines to protect the owl.

In the interim, logging will be prohibited on 66,000 acres of owl habitat. Further cutting without a conservation plan in place, the ruling says, "would constitute irreparable harm, and would risk pushing the species beyond a threshold from which it could not recover."

The delay could have been avoided completely had the Forest Service adopted a plan last fall, as it was required by law to do. Dwyer angrily attacked the "deliberate and systematic refusal" by the Forest Service and the Fish and Wildlife Service to comply with the laws protecting wildlife.

Ironically, Bush administration officials, by trying to thwart environmental laws, have caused greater uncertainty and hardship for declining timber communities.

Attempts by politicians such as Sen. Slade Gorton and State Land Commissioner Brian Boyle (who just announced he is running against Sen. Brock Adams) to make the spotted owl the culprit are likewise dishonest and harmful. Loggers have suffered, and will continue to suffer, but not as the result of environmental laws.

Dwyer's findings on this point are painfully clear:

"Over the past decade, many timber jobs have been lost and mills closed in the Pacific Northwest. The main reasons have been modernization of physical plants, changes in product demand and competition from elsewhere. . . . Job losses in the wood-products industry will continue regardless of whether the northern spotted owl is protected. A credible estimate is that over the next 20 years more than 30,000 jobs will be lost to worker-productivity increases alone."

Yet, the picture is not as bleak as it might seem. The Northwest's economy has successfully absorbed displaced timber workers. Jobs in wood products declined in Oregon by 17 percent between 1979 and 1989. In the same period, Oregon's total employment increased by 23 percent.

As the timber industry contracts (it employs 2 percent of all workers in Western Washington, 4 percent in Western Oregon, and 6 percent in Northern California), its impact on the regional economy will decrease.

Loggers don't need politicians willing to engage in easy owl-bashing. They need help making a difficult economic transition. So far, they haven't gotten that from anybody.

STATEMENT OF
DR. JOHN H. BEUTER, DEPUTY ASSISTANT SECRETARY
UNITED STATES DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Forests, Family Farms and Energy
Committee on Agriculture
United States House of Representatives

Concerning
H.R. 842, Ancient Forest Protection Act of 1991,
H.R. 1590, Ancient Forest Act of 1991,
H.R. 1309, Community Stability Act of 1991, and
H.R. 2463, Forests and Families Protection Act of 1991

May 29, 1991

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

I appreciate the opportunity to appear before you today to discuss H.R. 842, and H.R. 1590, both which address old growth resource values. H.R. 1309, establishes a policy of managing National Forests and public lands so as not to create instability in resource dependent communities; and H.R. 2463, a bill that would protect and manage old growth and ensure the stability of communities dependent on federal lands. I am accompanied today by Dale Robertson, Chief of the Forest Service.

I have a brief statement I'd like to make and then ask that the rest of my testimony containing our detailed comments on the individual bills be made a part of the record.

The focus of this hearing is on old growth primarily, and by extension, because of its relationship to old growth, the conservation of northern spotted owls, a species listed as threatened under the Endangered Species Act (ESA). During questioning following our April 25, 1991 testimony on H.R. 842 and H.R. 1590 before the House Interior Subcommittee on National Parks and Insular Affairs, the Administration's commitment to finding a solution to these issues was questioned.

We believe the Administration has acted responsibly on this difficult issue. The record reflects that the Administration met its legal obligation under the ESA by listing the northern spotted owl as a threatened species. The Fish and Wildlife Service then worked expeditiously to assure that land management agencies could meet their consultation obligations under the ESA to enable timber sales to go forward.

At the same time, the Administration created a spotted owl task force whose recommendations formed the basis for Congressionally authorized harvest levels while mitigating the overall impact on job losses. Also, the Administration supported efforts to restrict exports of unprocessed timber from Federal and state lands, and the President signed this legislation to protect jobs in northwest lumber mills last year. Furthermore, Secretary Lujan has appointed a spotted owl recovery team that is working to develop a long-term plan to ensure survival of the spotted owl while also minimizing to the extent possible, social and economic impacts from owl protection activities.

This issue is complicated further by the overlay of legislative requirements for managing Federal forest lands. Management plans for the National Forests must be developed in compliance with National Environmental Policy Act (NEPA) and ESA requirements to assess and report on environmental consequences, and the legal and regulatory requirements for interdisciplinary development of alternatives and public involvement under the National Forest Management (NFMA). In addition, when a species is listed under the ESA, e.g., the northern spotted owl, the process is overlaid with ESA requirements.

We wish to emphasize the difficulty of simultaneously complying with this overlay of legislation, and cite the valiant effort of the Forest Service to do so. Despite their best efforts, the system is bogged down by appeals and litigation, much of which has more to do with process than substance. Even though it may be desirable and technically possible to simultaneously comply with all the Acts, it is often not feasible to do so in a timely manner.

At present, the FY 1991 timber sale program in Oregon and Washington is enjoined on procedural matters related to a requirement for concurrent compliance with NEPA, NFMA and ESA in ensuring the viability of the northern spotted owl. The result is costly duplication of effort at best, and an impasse in the timely development and implementation of Forest Plans at worst. Any attempt by the Forest Service to assure species viability under NEPA and NFMA without a completed recovery plan under ESA is sure to be appealed or litigated under ESA. In the meantime, FY 1991 timber sales that have successfully passed consultation with the U.S. Fish and Wildlife are enjoined, putting at risk thousands of jobs and the well-being of rural communities throughout the Pacific Northwest.

In this context we would like to acknowledge the recent efforts by this Subcommittee to work out a multi-year solution to the difficult and complex issues involved in the management and protection of old growth forests. We would like to emphasize the Administration's desire to achieve, with the Congress, a balanced, comprehensive solution that provides an appropriate mix of protection and management for forest ecosystems in the Pacific Northwest.

None of the four bills being considered by this subcommittee today achieves a balanced, comprehensive solution on its own. However, they all include sections that should be in legislation that provides the desired balance between ecosystem protection and forest management.

The Administration is opposed to making significant land use allocations or management decisions outside of the comprehensive forest planning framework directed by NEPA, NFMA, and the Federal Land Policy and Management Act (FLPMA). Legislation should acknowledge the forest planning process as the means for evaluating old growth reserve proposals, selecting reserve areas, and specifying the standards and guidelines for managing the reserves and other old growth areas.

most of the discussion and debate about old growth has centered around its definition in terms of structure and composition. However, not much has been said about its function except with regard to specific habitat requirements such as that needed for the spotted owl. Old growth is important for the northern spotted owl, but it is also important for many other values and uses within the context of total forest management. The Forest Service recognized this in a position statement written in October 1989, entitled "National Forest Old Growth Values." The spectrum of values includes biological diversity, recreation, soil productivity, water quality, forest products, and aesthetics. The best way to evaluate the interaction among these values is in the framework of comprehensive land use planning using site specific information. Legislation should recognize at least three categories into which National Forest areas might be classified according to their characteristics and function.

The first category is old growth reserves where timber harvesting is excluded. This includes old growth in Wilderness areas and other Congressionally designated reserved areas, and other areas may be added by legislation.

The second category includes old growth areas in which timber harvesting may be permitted under special guidelines primarily to maintain forest health and to rehabilitate areas damaged by catastrophic events such as fire, insects, disease or wind. In the broader framework, timber harvest may be utilized to perpetuate the successional role of the old growth ecosystem in its interrelationship with other ecosystems. In general, the goal would be to allow management that is compatible with maintaining old growth composition and structure in a landscape context indefinitely.

The third category includes old growth areas that would be available for timber harvest within the standards and guidelines of the forest planning process. These lands would be available to meet planning goals for timber and other forest resources.

Legislation should provide a 3-to 5-year interim period during which existing old growth under Forest Service administration can be studied and evaluated to determine how it should be classified among these three categories. The evaluation should focus on areas already identified for potential significance, such as the 3 million acres proposed for protection in the current National Forest plans and the old growth in the Habitat Conservation Areas (HCAs). Administration policy has already suspended timber harvesting in these areas pending further analysis and the completion of the recovery plan for the northern spotted owl.

It should be emphasized that the old growth evaluation is intended to go beyond merely drawing lines on a map to set aside old growth. Included are broader considerations of biodiversity and habitat protection to serve the needs of all old growth dependent species. Legislation should recognize the interdependencies in the broader framework and acknowledge that the focus is on old growth habitat and not on individual species.

During the interim period, the legislation must provide a predictable timber sale program, with volume levels set as high as possible within the guidelines of existing Forest Plans, without compromising the opportunities for the old growth evaluation. The Forest Service is currently analyzing harvest possibilities in terms of merchantable timber that is available outside the restricted old growth areas, and in light of recent court opinions regarding needed compliance with NEPA and NFMA. This information will be shared with the Congress as it becomes available.

Legislation should provide for continuing research of old growth ecosystems and the opportunities for managing and perpetuating them. The Forest Service has an ongoing research effort to clarify definitions, conduct inventories, develop and implement silvicultural practices to maintain or establish desired old growth values, and explore the concept of ecosystem management on a landscape basis. Forest Service land management decisions will strive to maintain future options so the results from these research efforts can be applied in subsequent decisions.

During the interim period, long-term decisions on the disposition of old growth and timber harvest levels should be made through the Forest Planning process, using the northern spotted owl recovery plan to be completed by the Secretary of the Interior and the recommendations of scientific evaluation and classification of existing old growth.

Summary

The development of an old growth reserve system should not begin with a presumption that a specified number of acres need to be reserved without management. There are management options, and some degree of management will be necessary to perpetuate old growth ecosystems. Time is needed to study and evaluate the existing old growth prior to deciding on the needs for old growth reserves.

The principles discussed in this testimony are intended to emphasize that there is more to the old growth question than merely a decision to reserve it or harvest it. There is a need to recognize the variety of functions provided by old growth, and the spectrum of management opportunities available to provide for both biological and human needs, now and in the future.

It is important to emphasize that decisions about old growth and timber harvesting should be made within the context of the existing Forest Planning process, using site-specific information, interdisciplinary analysis, and public involvement to best determine the resource allocations for each National Forest.

This concludes my statement. Dale and I will be happy to answer any questions you have.

SUPPLEMENTAL STATEMENT OF DR. JOHN H. BEUTER

MAY 29, 1991

H.R. 842. "Ancient Forest Protection Act of 1991"

The primary thrust of H.R. 842 would direct Congress to designate ancient and associated forests for inclusion in a National Ancient Forest Reserve System.

If H.R. 842 were enacted, it would circumvent the land and resource management planning process set forth in the National Forest Management Act (NFMA) and its implementing regulations. It also would eliminate the ability of the Forest Service to manage and protect a significant portion of National Forest resources in the Pacific Northwest, and it would severely limit opportunities to respond to public needs, now and in the future.

H.R. 842 would preserve virtually all old growth stands without any consideration of their relative ecological significance, or of their importance for providing a variety of multiple-use values. Certainly, some areas have more significance for protecting old growth-related values than do others. But many other areas can be managed in an environmentally responsible manner to supply timber sales as well as other multiple uses.

H.R. 842 would place lands into a reserve system using yet to be determined criteria. Creation of a reserve system under this legislation would have the effect of locking up a significant portion of the National Forests without any balancing of old growth benefits against the benefits of other resource values and uses. Such an inflexible zoning of National Forest System lands would jeopardize the multiple-use mandate enacted by Congress for managing the

National Forests. This legislation would essentially divide the National Forests into two zones, one to be managed for multiple-use and the other to be managed to solely protect its natural character.

The Administration strongly opposes enactment of H.R. 842.

H.R. 1590, "Ancient Forest Act of 1991"

Although H.R. 1590 has several provisions that are desirable if an old-growth reserve system is to be established, we oppose this bill. The proposed bill recognizes the desirability of an ecosystem approach to wildlife habitat management, instead of focusing on the habitats of single species. It seeks to provide an assured timber supply for the forest products industry in timber dependent communities. It provides time to analyze the need for old-growth reserves. And, it emphasizes the importance of research to advance the level of scientific knowledge about old growth forest ecosystems.

We believe it is impossible to meet both the area of old growth reserve and the timber harvest volume prescribed in this bill for the interim period. The Forest Service is conducting additional analysis to determine what changes could be made in the bill to allow the level to be met or determine the level that could be met given the number of acres protected and the operating constraints outlined in the bill.

We agree with the desirability of a scientific determination of ecologically significant old-growth, but do not support the idea of a separate scientific committee. The scientific community is indispensable for providing advice and expert opinion to the professional managers who must blend both scientific and public opinion into comprehensive plans that can be implemented on the ground. Scientists should work closely with forest managers to devise management strategies to sustain the structure of old-growth ecosystems, and not merely draw boundaries for set-aside areas.

H.R. 1590 acknowledges the need for more information about old growth forest ecosystems. We support the type of research suggested in the bill, and recommend that it be folded into current Forest Service research being conducted in the area of old growth management and New Perspectives.

Finally, the Administration opposes the provision in H.R. 1590 that would create a new worker adjustment program for workers who are displaced as a result of the bill's timber sale restrictions. We understand that displaced workers are currently and adequately covered by the provisions of Title III of the Job Training Partnership Act (JTPA), as amended. We defer to the Department of Labor for their views on the JTPA proposal in H.R. 1590.

H.R. 1309, "The Community Stability Act of 1991"

H.R. 1309 would require that a "minimum management requirement" be established for each National Forest or unit of public land for timber, mining, livestock, motorized and non-motorized recreation, and other community-related outputs. The purpose of the minimum management requirement would be to prevent economic instability in resource-dependent communities associated with National Forest or unit of public land.

We have several concerns about the bill. The major concern is that the bill could require significant amendments to NFMA, the Multiple-Use Sustained-Yield Act (MUSY), and the National Environmental Policy Act (NEPA). Other concerns are that it would be difficult to accurately link forest outputs with employment/economic consequences for communities; the bill would emphasize maintaining historic conditions without recognizing changes in market conditions and public preferences; and it would place a substantial burden on many small-business enterprises with requests for proprietary economic information.

Although we oppose H.R. 1309, we agree with the sentiment that protecting old growth should be done in a manner that does not bring about sudden hardships on the people who live in small communities dependent on timber from the National Forests. Whenever possible, major changes should be phased in over a period of time.

H.R. 2463. "The Forest and Family Protection Act"

We have not had time to complete a detailed analysis of this bill. Our initial review indicates that although it contains some features we believe should be in legislation, overall, the Administration is opposed to this bill.

We are concerned about making changes to the statute underlying the current forest planning process to address a specific problem affecting 17 National Forests in the Pacific Northwest. The Forest Service is engaged in a comprehensive review and evaluation of the forest planning process. A "Critique of the Land Management Planning Process", involving thousands of persons inside and outside the Forest Service, was completed last year. The findings of the Critique and agency experience indicate that the planning process defined in the National Forest Management Act (NFMA) is basically sound. To address problems associated with implementing and updating the plans, the Forest Service issued, in February, an "Advance Notice of Proposed Rulemaking", specifically directed at clarifying and streamlining procedures for changing and implementing Forest Plans. We anticipate issuing proposed rules sometime in the fall, after reviewing the comments we received.

In addition to proposing changes in the planning regulations, we recently issued for public comment, new direction for the Forest Service Manual on policies and procedures for compliance with NEPA.

We believe this revision of the planning regulations and the proposed direction for compliance with NEPA will address many of the concerns with the planning process expressed by this bill.

Furthermore, with regard to the administrative appeal process, we are concerned that this bill would establish by statute a process that we believe is better handled by regulation. We have solicited comments on the administrative appeal process in the Advance Notice of Proposed Rulemaking and we have a task force preparing recommendations for changes in the process. We need to retain the flexibility to make appropriate changes in the appeal process as a result of this evaluation.

We oppose the provision in H.R. 2463 that would create a new economic adjustment grant program for communities and workers who are displaced as the result of the bill's timber sale restrictions. As noted above, displaced workers are adequately covered by the provisions of Title III of JTPA.

We continue to oppose any changes in the planning process that emphasize one aspect of multiple-use, such as commodity production, or that mandates minimum levels of outputs, such as for timber outputs in this bill.

We agree that the forest planning process should provide some level of stability and predictability in commodity outputs, both during an interim period, and in the long-term, and should be sensitive to the needs of dependent local communities.

Budget Information

Both H.R. 1590 and H.R. 842 would increase direct spending and decrease revenues, and are therefore subject to the pay-as-you-go (PAYGO) requirement of the Omnibus Budget Reconciliation Act (OBRA) of 1990. No offsets to the direct spending increases are provided in either bill. The Administration opposes all PAYGO legislation that is not deficit neutral. I would also note that if either bill were to go to the Senate or House floor without offsets, it would be a violation of the Budget Enforcement Act (BEA) subject to a point of order.

Our preliminary PAYGO scoring for the Forest Service estimates that if H.R. 1590 is enacted, it would be approximately \$340 million per year for Fiscal Years 1992 through 1995, for a total of approximately \$1.4 billion. This is as compared to the baseline of the current service levels in the President's Budget projections. There is no PAYGO impact for FY 1991 because H.R. 1590 would not take effect until FY 1992.

For the Forest Service, H.R. 1590 assumes a reduction of timber sale levels in Fiscal Years 1992 through 1994. This provision, to reduce the allowable sale quantity (ASQ), would result in an average annual reduction in Federal Government revenues of approximately \$220 million in FY 1992 through FY 1995.

The provision to change the rate of payments to States from 25 to 50 percent is estimated to result in an annual reduction in Federal revenues of \$104 million in FY 1992 through FY 1995.

The Special Job Training Fund that would be established in H.R. 1590 under the Department of Labor is preliminarily estimated to result in an average annual new direct spending from FS receipts of approximately \$16 million per year, for four years.

The impacts of H.R. 842 are broad and difficult to quantify. They would equal or exceed the estimates for reduced timber receipts in H.R. 1590 (about \$220 million a year) and could be as much as \$2.6 billion for Fiscal Years 1992 through 1995.

While there are no known PAYGO impacts, there would be administrative costs to implement H.R. 1309. These costs are estimated to be \$50,000 to \$100,000 for each National Forest Administrative Unit and \$25,000 for each evaluation. The estimated total cost for a 10-year planning period would range from \$12 to \$18 million.

Because H.R. 2463 has just been introduced, we have not had sufficient time to analyze the PAYGO impacts of the bill. However, it would increase direct spending and it does not contain any offsets to these increases. Therefore the Administration would have to oppose this legislation.

STATEMENT OF JOHN F. TURNER, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENERGY, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, REGARDING ANCIENT FOREST LEGISLATION

May 29, 1991

Mr. Chairman, thank you for the opportunity to comment on several bills related to the northern spotted owl and forest management in the Pacific Northwest. Before turning to the legislation, however, I would like to highlight some of the actions the Administration has taken.

Protection of the spotted owl is being addressed within a complex network of laws, jurisdictions and constituencies. The Endangered Species Act is but one law that must be followed. Other major statutes include the Federal Land Policy and Management Act, National Forest Management Act, National Environmental Policy Act, Oregon and California Lands Act, and others. There are no short cuts, and we have acted expeditiously to meet our commitments under these laws.

The Administration met its legal responsibilities by listing the northern spotted owl as a threatened species, and the Fish and Wildlife Service has issued a proposal for critical habitat. The Service moved rapidly to assure that timber management agencies could meet their consultation obligations under the Endangered Species Act so as to allow timber sales to go forward, and we have successfully consulted on hundreds of sales.

At the same time, we developed a set of incidental take guidelines to reduce the liability of private landowners carrying out

operations in areas of probable owl habitat. The Administration created a timber task force whose recommendations formed the basis for congressionally authorized harvest levels while mitigating the overall impact on job losses. Also, we supported efforts to restrict exports of unprocessed timber from Federal and State lands, and the President signed legislation last year to do so.

These issues are complicated further by the fact that the two Federal agencies that manage timber -- the Forest Service and the Bureau of Land Management -- operate under different organic legislation and other statutory mandates. In addition, each of the three States with significant northern spotted owl populations has its own forest management and environmental protection laws. Finally, we are dealing with issues in which there is an almost unprecedented divergence of opinion and a long, acrimonious history of disagreement. Bringing the various players to the table is difficult enough, much less achieving solutions.

Secretary Lujan has asserted leadership by committing to a long-term solution without enduring a long-term process. To accomplish this, the Secretary has appointed a recovery team comprised of a variety of disciplines needed to assure development of a successful plan. The team will issue a plan that can serve as a guide to future Federal, State, and private actions affecting the owl so that the recovery goals can be met and public uncertainty can be reduced. A draft is scheduled for public comment in December of this year.

The recovery planning effort will be an open and comprehensive process, as Secretary Lujan has pledged. As responsible public servants, we owe the public no less. In order for our work to be successful, we welcome public input, constructive criticism, and expressions of concern. Our task is an ambitious one. The Secretary has charged the team to use the "full range of its creative abilities" and has told us that our work has his highest expectations, full encouragement, and support. The team has accepted the challenge and responsibility, and we hope that others will recognize their roles and work productively together for the benefit of everyone in the Pacific Northwest.

H.R. 842, the Ancient Forest Protection Act of 1991, and H.R. 1590, the Ancient Forest Act of 1991, attempt to recognize all the immediate and potential values represented by the forests of the Pacific Northwest by establishing a system of ancient forest reserves. The Fish and Wildlife Service defers to the affected land-managing agencies to comment on the specific legislation and existing planning systems, but we do support the goal of addressing as complete a spectrum of concerns as possible in a comprehensive manner, rather than piecemeal and sequentially. In principle, the Service supports the incorporation of a wide array of ecosystem considerations in addressing management of the public lands and National Forests of the Northwest. We believe this approach may best support the goals and intents of the Endangered Species Act and may reduce future uncertainty over the management of public resources. However, a variety of policy and operational concerns need to be addressed in developing such an approach.

By limiting the reductions in outputs that may be specified in land-use plans, H.R. 1309, the Community Stability Act of 1991, seeks to promote stability in communities that depend on resources from the National Forests and public lands. While the goal is laudable, the means to achieve it could lead to levels of utilization that could conflict with appropriate long-term multiple-use management. Again, the Service defers to the affected land-managing agencies concerning the compatibility of this bill with existing mandates and planning processes.

The Fish and Wildlife Service recognizes its considerable responsibility for long-term conservation of the northern spotted owl through cooperation with Federal, State, and private timber managers, as well as through our participation in the development of a balanced recovery plan that provides adequately for the needs of the owl while incorporating other values. We intend to pursue all these avenues vigorously, with reliance on the best scientific information we can gather and taking into account economic analyses as appropriate. Thus far, the progress of the recovery team appointed by Secretary Lujan is encouraging. I believe the team will be able to make a significant contribution to the future integration of the many goals and values held by various interests for the forests of the Northwest.

Mr. Chairman, I will be happy to respond to questions, and to discuss means of achieving better management of the Nation's public lands and the many species they support.

MAY 29 1991

STATEMENT OF CY JAMISON, DIRECTOR, BUREAU OF LAND MANAGEMENT, UNITED STATES DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENERGY, COMMITTEE ON AGRICULTURE, UNITED STATES HOUSE OF REPRESENTATIVES ON H.R. 842, THE "ANCIENT FOREST PROTECTION ACT OF 1991", H.R. 1590, THE "ANCIENT FOREST ACT OF 1991", H.R. 1309, THE "COMMUNITY STABILITY ACT OF 1991" AND H.R. 2463, FORESTS AND FAMILIES PROTECTION ACT OF 1991.

I appreciate the opportunity to appear before you today to discuss H.R. 842 and H.R. 1590, both of which address old growth forest resource values and H.R. 1309, a bill that establishes a policy of managing public lands and national forests so as not to create instability in resource - dependent communities. I will discuss H.R. 842 and H.R. 1590 first, and then discuss H.R. 1309.

H.R. 840 AND H.R. 1590

We urge that neither H.R. 840 or H.R. 1590 be enacted. Both bills raise major "pay-as-you-go" questions under the 1990 Budget Enforcement Act, which I will describe herein. We want to emphasize the Administration's desire to legislatively achieve a balanced multi-year solution to the old growth forest issue. Such a solution should provide for an appropriate mix of protection and management for ecosystems in the Pacific Northwest that contain old growth trees.

Briefly, H.R. 842 provides for protection of remaining ancient forests on Federal land in California, Oregon, and Washington through establishment of a National Ancient Forest Reserve System, which I will refer to as the System. H.R. 842 would prohibit all timber cutting, including salvage, fire

suppression, active insect and disease suppression, and road building in the areas designated as part of the System. The lands would also be withdrawn from entry and disposal under the public land laws and from mining and mineral leasing. Certain areas would be designated as part of the System by the bill and subsequent filing of maps, while other qualified areas would be managed under a protective interim management approach pending later Congressional action to determine whether those lands are also to be included in the System.

H.R. 1590 also seeks to establish an "Ancient Forest Reserve System". It requires the Secretary of the Interior and Secretary of Agriculture to designate and reserve lands for the System within three years after enactment of the legislation, and it specifies that the System would contain about 660,000 acres of Bureau of Land Management (BLM) lands and 5,660,000 acres of national forest lands. A research program is also mandated. The bill includes a list of nine criteria that designation of lands for the Ancient Forest Reserves would be based on. Within the System, H.R. 1590 would preclude removal of vegetation except for very limited purposes, and would remove the lands included from disposition under the public land laws, including mining and mineral leasing.

Outside the Reserves, H.R. 1590 would call for use of certain forest management techniques detailed in the bill within the Douglas Fir Region. Other components of the bill include a Presidential Ancient Forest Scientific Committee to advise the Secretaries on establishment of the Reserves, a minimum BLM timber offer of 450,000,000 board feet within the Douglas Fir

Region during FY 1992 - 1994, subject to certain specific limitations, adherence to land use plans, economic assistance to rural communities, forest improvement, and job training funds.

Under the "National Mandate" provisions in Section 15 of H.R. 1590, old growth forest ecosystems would be individually highlighted as areas of critical environmental concern (ACECs) given priority in development and revision of land use plans. In addition, an inventory of old growth forest ecosystems would have to be submitted to Congress. There would be a two year deadline for inventory of the "Douglas-Fir Region."

Detailed summaries are attached for your further reference.

The Administration is committed to resolving the issues giving rise to these proposals. There are several efforts underway that will define and recommend measures to help resolve the old growth forest and related controversy concerning threatened or endangered species such as the northern spotted owl on the BLM and the Forest Service (FS) managed lands. It may be advantageous to use the research and other accompanying data to shape legislation to address old growth issues in a comprehensive way. We will then be in a better position to achieve an acceptable resolution that will meet the recognized needs for old growth protection and its associated benefits, protection of threatened and endangered species, certainty of timber harvest from the Federal lands in question, and assistance to affected communities within existing authority.

The BLM is in the process of developing Resource Management Plans (RMPs) for the Western Oregon lands that would be affected by the proposed legislation, as directed by the Federal Land Policy and Management Act of 1976 (FLPMA). This process started in 1986 and has involved considerable and significant public involvement. The plans are scheduled for completion in 1992 with implementation beginning in 1993. The public's expectations and BLM policy are that public input would be considered in development of the RMPs. Both H.R. 1590 and H.R. 842 would negate significant contributions from many members of the public as part of this planning process and would require reanalysis and resubmission of public input. Perhaps more importantly, if a solution to the identified problems is imposed now, that solution would lack the benefits of the public participation processes.

It is important to note that the final products of this planning process will be consistent with the requirements of existing legislation including the Oregon and California Railroad Grant Lands Act (O&C Act), FLPMA and the Endangered Species Act (ESA) and will take into consideration in a comprehensive way both economic and wildlife habitat concerns. And, although there will be individual plans completed for each of the involved BLM Districts, these plans will be thoroughly integrated with one another through the use of the BLM's geographic information system.

The Secretary of the Interior has recently appointed a team to address the recovery of the northern spotted owl as required by the ESA. The work of this team has been underway for a very short time. The Secretary has directed this

team to look at the biological needs of the northern spotted owl as well as other species that may require similar habitats. The team will also look at potential economic impacts of spotted owl protection. This process will be completely open to the public and should proceed on schedule. It is our belief that, although the timing of this effort does not match the BLM planning effort in an optimal way, the results of this effort should be incorporated into our forest plans through the planning process. Any legislation should have the benefit of available analysis from the BLM's resource management planning process, including any recommendations of the recovery team, if such analyses and recommendations are available in a timely manner.

Both H.R. 842 and H.R. 1590 as presently drafted present significant administrative and management issues for the BLM, due in large part to the fragmented landownership pattern. Most of the BLM areas are in a "checkerboard" land ownership pattern where the BLM manages alternate sections of land interspersed with privately owned land. Further, most of the BLM areas have been managed for timber harvest for over 50 years. This has resulted in a mosaic of age classes with most remaining old growth stands being relatively small. Management of old growth reserves as envisioned by H.R. 1590 would be almost impossible in this type of land pattern.

Intermingled private ownership presents added difficulties in terms of the fire management, road building, and insect and disease suppression policies called for by the bills.

The BLM has entered into reciprocal rights-of-way agreements with the intermingled private forestland owners. Many of these agreements are quite old. These agreements give a property right to the permittees to construct roads across BLM lands for the purpose of access to their lands. Abrogating agreements could result in legal controversies entitling owners to compensation. It also could result in limiting the ability of private landowners to harvest their timber.

From strictly a silvicultural standpoint, the checkerboard land pattern requires rapid and aggressive treatment of stands infested with insects and disease, before lands adjacent to infested stands are affected. It also requires intensive fire suppression efforts to protect the BLM forestlands outside the proposed Reserves and adjacent private lands. Many of the BLM's lands are near residential areas that must have rapid wildfire response. The bills in question would not meet these needs.

Finally, since the BLM management responsibilities represent such a mosaic of age classes as well as non-contiguous ownership, we believe that prudent management actions within areas established as old growth reserves will be both necessary and desirable. In short, western forests are a reflection of past management practices that were thought appropriate at the time they were implemented. We believe we now have the ability to provide management that can enhance the existing situation and provide for an enduring old growth resource with its attendant attributes.

The BLM recognizes and appreciates the importance of old growth ecosystems as a portion of the multiple resource values found on public lands. The BLM lands can be especially important in providing low elevation old growth and in providing links across valleys and between distinct provinces. However, at this time the BLM can best manage these representative systems through our RMP process. These are consistent with existing law. We do not think that the type of System or Reserve envisioned in H.R. 842 and H.R. 1590 is feasible on lands with the BLM's intermingled ownership pattern and history.

We do not think it best to legislate an age of standing trees for a given area. It would have the effect of placing a hold on a natural system at a particular time in its life cycle. That is impossible to do. Living things change -- old trees die; young trees grow older. A flexible approach is needed to manage a dynamic natural process.

With regard to Section 12 of H.R. 1590, we understand that displaced workers are currently covered by the provisions of Title III of the Job Training Partnership Act (JTPA). Because the subject is outside the area of our expertise, we defer to the Department of Labor for their views on the JTPA proposal.

We also have some more specific and technical concerns about particular provisions of these bills. Some of these are as follows:

H.R. 842

o We note that H.R. 842 does not contain any acreage limitation or approximation for appropriate acreage to comprise the System. Such an open ended System with large blocks of other lands to be placed in interim management is not realistic in this part of the country where there are other legitimate competing uses and related benefits.

o The definition of "associated" forest in H.R. 842 is so broad that tracts may be unnecessarily removed from normal management practices for long periods of time.

o The BLM opposes the proposed interim management. After the Interagency Scientific Committee report was released last year, the BLM developed the Jamison Strategy as an interim plan providing options to protect owl habitat while providing a continued supply of timber through FY 1992, until the RMPs are completed. The harvest level set is 36 percent below the level in existing plans. Setting harvest levels beyond FY 1992 should be done through the planning process, and such levels should be based on the land that will be made available for timber management in the new plans.

H.R. 1590

o The BLM currently has over 400,000 acres or nearly 20 percent of the Western Oregon forestland base in old growth. Of this total, 143,000 acres

are protected by legislated set asides or by existing plans. The remaining old growth represents approximately 1/3 of the timber stand age classes available for harvest in Western Oregon.

o If the BLM sets aside 660,000 acres, then much of the remaining mature timber would likely be removed from the timber harvest program. This would leave only young timber for harvest to maintain a timber supply. This might result in the BLM being forced to cut young, vigorously growing trees - the forest of the future - or drastically reduce the level of harvest.

o It is unrealistic to expect the Scientific Committee to review all proposals for new road construction prior to implementation when a significant portion are from private landowners. Virtually all the BLM lands in Western Oregon are covered by long-standing reciprocal road use and rights-of-way agreements with private owners. These agreements are legally binding. The BLM has only 30 days to review and can only bar construction for a very few specified reasons.

o The BLM does not feel that a Scientific Committee is needed to set boundaries, define old growth, or determine field prescriptions. The BLM, the FS, the local universities, and other research organizations have the expertise available to manage these lands and to research better ways of integrating the management of the many resources in the region. The BLM agrees with the need to do research on old growth ecosystem management and is

cooperating with local governments, the FS, and the universities to meet these objectives. The BLM has recently established a cooperative research unit at Oregon State University for just that purpose.

o The BLM also objects to the provisions setting priorities on timber sales. The BLM considers the distribution and size of sales based on the existing plans, taking into account cumulative impacts, wildlife needs, watershed factors, and other resource values. The sale plans are made available for the public review and review by other government agencies. Since the petition and subsequent listing of the northern spotted owl as a threatened species, the BLM has worked closely with the Fish and Wildlife Service to assure compliance with the ESA. The priorities identified in the bill are unnecessary.

o Prescriptions for the management of the forests should be done through the RMPs. We accept "New Forestry" as a concept, but it has to be operationally defined from on-site data.

o The Ancient Forest Scientific Committee is given 2 1/2 years to establish definitions for old growth, new forestry, and to recommend boundaries. We believe these responsibilities should properly remain with the Secretaries of the Interior and Agriculture.

o It is uncertain whether the BLM will be able to meet the minimum harvest of 450 mmbf per year through Fiscal Year (FY) 1994 with the constraints included in this bill. Rather we believe the levels established by the RMP's beginning in 1993 should be used as harvest levels.

o We do not believe that the BLM components of the "National Mandate" in section 15 are beneficial or appropriate. Special recognition and legislative mention of one type of ACEC over others in the land use planning process is unnecessary. FLPMA currently allows for recognition of old growth, where appropriate, through the ACEC process. ACEC's are already clearly given priority in planning.

o The BLM is already doing an intensive inventory of ecologically significant old growth forest ecosystems in the Douglas-Fir Region. We expect that it will be completed in FY 1992. The remaining BLM forest lands would be addressed through revision of RMP's. Therefore, we do not believe the inventory directed in section 15(c) is necessary.

Both H.R. 1590 and H.R. 842 would increase direct spending and increase revenues and are therefore subject to the pay-as-you-go (PAYGO) requirement of the Omnibus Budget Reconciliation Act of 1990. No offsets to the direct spending increases are provided in either bill. The Administration opposes all PAYGO legislation that is not deficit neutral. I would also note that if this bill were to go to the Senate or the House floor without offsets, it would be a violation of the Budget Enforcement Act (BEA) subject to a point of order.

Our preliminary PAYGO scoring estimates for the Department of the Interior, if H.R. 1590 is enacted, is on average \$62 million per year for FY 1992 through 1995, for a total of approximately \$240 million. There is no PAYGO impact for 1991 because H.R. 1590 would not take effect until 1992.

For the BLM, H.R. 1590 assumes a reduction of the current BLM timber sale levels of 550 mmbf in 1991 to 450 mmbf per year in FY 1992 through 1994. This provision to reduce the allowable sale quantity (ASQ) would result in an average annual reduction in Federal Government revenues of approximately \$35 million per year in FY 1992 through FY 1995.

The provision to change the rate of payments to appropriate Oregon and California counties from 50 to 75 percent is estimated to result in an annual average reduction in Federal revenues of \$25 million in FY 1992 - 1995.

The Special Job Training Fund that would be established in H.R. 1590 under the Department of Labor is preliminarily estimated to result in an average annual new direct spending from BLM receipts of approximately \$2 million per year.

The impacts of H.R. 842 are difficult to quantify and are dependent upon such factors as implementation of new forest management techniques. Our preliminary PAYGO scoring estimates for the Department of the Interior, if H.R. 842 is enacted, range from approximately \$10 million for FY 1992 to \$65 million for FY 1995, for a total of approximately \$170 million.

H.R. 1309

H.R. 1309 adopts a policy of managing national forests and public lands so as not to create instability in resource-dependent communities, create barriers to access for the disabled, or create employment or housing disadvantages for

minority groups. It is a broad based bill encompassing not only forest resources, but mining, recreation, livestock use, and other community related resources.

The land use planning process would be used to achieve H.R. 1309's policy, chiefly through inclusion of community assessments in plan preparation and adoption. A detailed summary of the bill is attached.

We agree that there is a need to provide for community stability when making resource decisions and to consider the impact of BLM decisions on affected communities. We also agree that the planning system furnishes a good framework for this kind of assessment. However, while concurring with many of the concepts embodied in the bill, we oppose enactment of this bill.

The BLM already considers economic impacts of alternative management regimes during the RMP process. The multiple use mandate in the FLPMA requires us to consider all resources, consumptive and non-consumptive, in the planning process.

In addition, the O&C Act requires that these O&C forest lands be managed for permanent forest production under sustained yield principles, in order to provide a permanent source of timber, protect watersheds, regulate stream flow, provide recreational opportunities, and contribute to the economic stability of local communities and industries. We are also charged with

carrying out applicable provisions of the Endangered Species Act, the Mineral Leasing Act, a variety of laws focusing on cultural and recreational values, and other statutory mandates.

Under FLPMA, the BLM provides various kinds of opportunities for public involvement and comment regarding planning decisions, regulations and other aspects of our administration of the public lands.

The type of problems giving rise to H.R. 1309 occur largely because there are legitimate competing values on the public lands. The BLM, as a multiple use land management agency, must make decisions based on consideration of this broad range of competing resource values and uses. Legislation that is narrowly focused, without acknowledgment of these competing values and without adequate flexibility, vastly complicates multiple use management, and leads to proliferation of problems rather than long term solutions.

It is our view that H.R. 1309 would simply overlay our existing processes with another set of requirements. It does not help us to address the natural resource issues that confront us from time-to-time, or to harmonize the sometimes seemingly inconsistent legislative and judicial mandates the BLM has been charged with implementing under existing statutes and court decisions.

I strongly support the objective of providing stability to communities through considering impacts of land use planning and other decisions on resource-dependent communities. It is our view that our legislative authority

and implementing procedures are fully adequate to carry out the necessary information gathering and assessments and to identify and analyze these impacts.

There are some operational problems inherent in several provisions of the bill. Section 4 provides for a community assessment for each affected resource-dependent community. It also provides for a rate reduction in outputs of no more than 4 percent a year. As I stated before, we support the idea of a community assessment to the extent that it is a consideration along with the other values we assess. However, we do not agree with setting minimum management requirements for resource values.

Section 5 would require annual reports to Congress and evaluations every 4th and 7th year. We do not think annual reports to Congress are necessary. Year-to-year changes are not usually that significant. We believe the fourth and seventh year evaluation periods are more appropriate.

Section 6 would require that regulations be promulgated within nine months. For regulations that might be as controversial as these, nine months is not adequate time for public review and other regulation processes.

We note the absence of definitions of "public lands" and "community assessment plan". These need definition. We also believe the term "resource-dependent" should be further defined in the bill.

H.R. 1309 has no known PAYGO impacts.

H.R. 2463

I have not carefully reviewed H.R. 2463 but, from my understanding of it, it recognizes the planning process and provides more balance than any of the other bills under consideration today.

CONCLUSION

In closing, I want to emphasize that the Administration supports the long term objective of old growth forest protection. We are fully committed through diverse efforts which are aimed at achieving this end. We simply do not believe legislation along the lines of H.R. 842 and H.R. 1590 are the best means of achieving this protection. With regard to H.R. 1309, while we support the community stability objective, we believe our current authority is both appropriate and sufficient and we cannot support passage of H.R. 1309.

This concludes my statement. I will be happy to answer any questions.

(Attachments follow:)

SUMMARY OF H.R. 942

SECTION 1. SHORT TITLE

Section 1 provides that this Act shall be cited as the "Ancient Forest Protection Act of 1991".

SECTION 2. FINDINGS

Section 2 contains Congressional findings, which include the importance of ancient forests, the threats to ancient forests and the species associated with them, and the importance of maintaining these forests for the economic stability and economic diversification of the Nation and the Pacific Northwest.

SECTION 3. DEFINITIONS

Section 3 contains definitions of "ancient forest", "associated forest", "Federal forest land", and "system".

SECTION 4. NATIONAL ANCIENT FOREST RESERVE SYSTEM

Section 4(a) would establish the National Ancient Forest Reserve System (system), consisting of units designated as components by section 5.

Under section 4(b), units of the system that are located either within the exterior boundaries of a national forest or within the exterior boundaries of a district of the Bureau of Land Management would be managed by the Secretary of Agriculture or the Secretary of the Interior, as appropriate.

The respective Secretary " "

- o Would be required to manage the units of the system in a manner to perpetuate, protect, and conserve the ancient forest structure, natural ecological elements and functions, and successional processes within them.
- o Could not build roads, prepare, advertise, offer, award, or operate timber sales, or cut or remove trees, alive or dead for any purpose, except where necessary to clear fallen trees in order to permit reasonable travel on trails or existing roads located within any unit.
- o Could not undertake any fire suppression activity within a unit of the system except where necessary to protect human life or property within any such unit or immediately adjacent to it.

Under section 4(c), Federal lands within each unit of the system would be withdrawn, subject to valid existing rights, from all forms of entry, appropriation, and disposal under the public land laws and from location, entry, and patent or lease under the mining laws, mineral leasing laws, and geothermal leasing laws.

Section 4(d) would authorize the respective Secretary to conduct suppression or control programs for native insects, plants, or diseases within any unit of the system. The respective Secretary also would be authorized to conduct suppression and eradication programs for non-native insects, plants, and diseases after making a determination of the feasibility of success and need for such actions in a process that complies with all requirements of the National Environmental Policy Act of 1969 and all other applicable statutes and treaties.

SECTION 5. DESIGNATION OF UNITS OF NATIONAL ANCIENT FOREST RESERVE SYSTEM AND OTHER PROTECTED AREAS

Section 5 would designate certain areas in California, Oregon, and Washington, as components of the system established under section 4.

SECTION 6. INTERIM PROTECTION OF ANCIENT FOREST AND ASSOCIATED FOREST

Section 6(a) would require all Federal forest lands in California, Oregon, and Washington which qualify as ancient forest or associated forest but are not designated as a component of the system to be managed in accordance with section 4(b). Section 6(b) would require the appropriate Secretary, not later than 45 days after enactment, to issue findings and publish maps designating such Federal forest lands under their jurisdiction that are subject to section 6(a).

Section 6(c) would require the appropriate Secretary, for land under his jurisdiction, to issue all necessary administrative orders or regulations (1) removing the volume of any commercial timber within any area designated for interim protection from any determination of timber available for commercial harvest; and (2) requiring the Forest Service and the Bureau of Land Management to reduce their annual timber sale offerings by an amount equal to the volume of commercially harvestable timber determined before enactment of this Act to have been otherwise available within the designated units.

Section 6(d) would require that, before undertaking any action that could result in the cutting or removal of vegetation or other alteration of any other characteristic of, or within, any lands designated for interim protection, the respective Secretary make a finding that the proposed action does not violate this Act. Each such finding would have to be accompanied by reasonable supporting scientific evidence and be published in the Federal Register. The Secretary would be required to allow adequate time for public comment before undertaking the action, which could not begin until 60 days after public notice of the action is issued.

Section 6(e) would provide that this section would no longer apply to any ancient forest or associated ancient forest lands that are designated by Act of Congress in the same manner as the tracts permanently designated under section 5 of this Act. Those lands not designated as units of the system would thereafter be managed in accordance with the Endangered Species Act of 1973, the Forest and Rangeland Resources Planning Act of 1974, the National Forest Management Act of 1976, the Federal Land Policy and Management Act of 1976, the Federal Water Pollution Control Act, and other applicable laws and treaties.

SECTION 7. PERPETUATION OF ANCIENT FOREST SYSTEM; STUDY

Section 7(a) contains a Congressional finding that the ancient forest depends greatly for its survival on surrounding or connecting forest. Section 7(b) states that it is the policy of the United States to develop and utilize the best scientific information to further study and identify the biological and ecological requirements of ancient forest ecosystems.

To implement this policy, section 7(c) would require the Chairman of the Council on Environmental Quality (CEQ), in cooperation with appropriate agencies and interested parties, to convene a panel of experts from universities and government and private research and scientific organizations to initiate, oversee, and publish a study to determine the biological and physical requirements for the survival and perpetual existence of ancient forest ecosystems. Section 7(d) would require the Chairman, CEQ to submit to the Congress by January 31, 1992, a report on the study, complete with recommendations and maps as appropriate. Any recommendations would have to include but not be limited to, the exact extent and location of additional corridors, buffer zones, restoration areas, and other aspects of associated forest, as necessary, to carry out the purposes of this Act.

SECTION 8. OVERSIGHT AND REVIEW

Section 8(a) would place the burden of proof on the United States, in any action relating to interim protection under section 6, to establish by clear and convincing evidence that the decisions and actions of the Secretary concerned are consistent with this Act. Under section 8(b), if an appeal of a decision is made to an agency to enforce the interim protection requirements of section 6 for an area, the Secretary concerned would be required to provide interim protection to that area until the agency issues a final decision on the appeal. If the agency's final decision upholds the decisions or actions of the Secretary concerned, section 8(c) would require the Secretary to provide interim protection to the area until after the nonprevailing parties have had an opportunity for a hearing before the appropriate Federal district court, and thereafter until such time as an appellant has had an opportunity for appellate review of the district court decision.

SUMMARY OF H.R. 1590

SECTION 1. SHORT TITLE

Section 1 provides that this Act be cited as the "Ancient Forest Act of 1991".

SECTION 2. FINDINGS

Section 2 contains Congressional findings, including the importance of old growth forest ecosystems, the threats to these ecosystems and the species associated with them and the importance of maintaining a stable timber supply for the Northwest economy and of helping rural communities to diversify their economies.

SECTION 3. PURPOSES

Section 3 sets out the purposes of this Act. These include protecting old growth forest ecosystems in perpetuity, ensuring the viability and recovery of the northern spotted owl and other species of plants and animals, providing a stable supply of timber from Federal lands to help maintain the economy of the Pacific Northwest, and providing assistance in promoting economic diversification and stability in rural communities impacted by a declining timber supply.

SECTION 4. DEFINITIONS

Section 4 contains definitions for "Secretary/Secretaries", "Oregon and California Lands", "Ancient Forest Reserves", "Ancient Forest Scientific Committee", "Douglas-fir Region", "habitat conservation areas", "Interagency Scientific Committee", "New Forestry Principles", and "old growth forest ecosystem".

SECTION 5. PACIFIC NORTHWEST ANCIENT FOREST RESERVE SYSTEM

Section 5(a) would require the Secretary of Agriculture and the Secretary of the Interior, within 3 years after enactment of this Act, to designate and reserve lands for a Pacific Northwest Ancient Forest Reserve System, which may include lands already designated withdrawn, or reserved for other purposes, including wilderness. Designation under this section would be in addition to, and not in lieu of, prior designations, withdrawals, or reservations.

Section 5(b) states that the purposes of the Ancient Forest Reserves are to protect for the benefit of present and future generations of Americans the ecological, environmental, aesthetic, and recreational values of old growth forest ecosystems on Bureau of Land Management (BLM) and national forest lands in the Douglas-fir Region and to regenerate such ecosystems where they once occurred within the Ancient Forest Reserve System.

Section 5(c) lists the criteria that would be used in designating Ancient Forest Reserves.

Section 5(d) would authorize the Secretaries, as part of their regular land management planning process, to recommend adjustments of the boundaries of Ancient Forest Reserves if they are consistent with the purposes of the Ancient Forest Reserves and the criteria used in designating them, and comply with these specific requirements:

- (1) The adjustment recommendation must be preceded by public involvement as provided in the land management planning process.
- (2) The recommendation shall maintain approximately the acreage established by this section (5,660,000 acres on national forest lands; 660,000 on public lands administered by the BLM).
- (3) The recommendation shall be reviewed by the Ancient Forest Scientific Committee established under this Act.
- (4) Recommended adjustments, together with a report of the Ancient Forest Scientific Committee, shall be submitted to certain Congressional committees. No boundary adjustments could occur unless made by an Act of Congress, but technical and clerical corrections could be made.

SECTION 6. MANAGEMENT OF THE PACIFIC NORTHWEST ANCIENT FOREST RESERVE SYSTEM

Section 6 specifies the management requirements that would apply to lands designated as Ancient Forest Reserves --

- (1) No removal of vegetation except for public safety, recreation, and administration.
- (2) Federal lands within the Ancient Forest Reserves would be withdrawn from disposition under the public land laws and from location, entry, and patent under the United States mining laws, from the operation of the mineral leasing laws, and the Geothermal Steam Act of 1970, subject to valid existing rights.
- (3) Roads, structures, motorized and nonmotorized recreation and access would be permitted within the Ancient Forest Reserves where compatible with the protection of old growth forest ecosystems and where consistent with the purposes of the Ancient Forest Reserves.
- (4) Hunting, fishing, and trapping on lands and waters would be permitted within the Ancient Forest Reserves in accordance with applicable Federal and State laws.
- (5) Areas within the Ancient Forest Reserves not meeting the definition of old growth forest ecosystems, or affected by fire or other natural causes, would be managed to regenerate old growth forest ecosystems.

SECTION 7. OLD GROWTH FOREST ECOSYSTEMS OUTSIDE THE ANCIENT FOREST RESERVES

Section 7 would require that any timber harvest in an area of an old growth forest ecosystem which is outside the Ancient Forest Reserves but within the Douglas-fir Region be managed using the New Forestry Principles described in the bill. The New Forestry Principles would have to be implemented no later than 3 years after enactment of this Act.

SECTION 8. ANCIENT FOREST RESEARCH PROGRAM

Section 8 would require the Secretaries, within 3 years after enactment of this Act, to establish an Ancient Forest Research Program. The bill lists some of the purposes to be included in the research program.

SECTION 9. THE ANCIENT FOREST SCIENTIFIC COMMITTEE

Section 9(a) would direct the President, within 6 months after enactment of this Act, to establish a permanent 11-person Ancient Forest Scientific Committee (Scientific Committee). The Scientific Committee would consist of members specified in the bill who would be appointed by the President from a list of candidates to be developed by the National Academy of Sciences. The administrative provisions for the Scientific Committee are addressed in section 9(b).

Section 9(c) would require the Scientific Committee to submit the following reports to the Secretaries and certain Congressional committees:

- 1) Within 1 year after enactment of this Act - A report containing a definition of old growth forest ecosystems in the Douglas-fir Region.
- 2) Within 2 1/2 years after enactment of this Act - A report containing each of the following:
 - (A) A definition of old growth forest ecosystems in the Douglas-fir Region.
 - (B) Recommendations on the management of the Ancient Forest Reserves consistent with section 6.
 - (C) A definition of New Forestry Principles and recommendations for their implementation based on the provisions of section 7.
 - (D) Guidelines for the Ancient Forest Research Program based on the provisions of section 8.
 - (E) Recommendations for the boundaries of the Ancient Forest Reserves consistent with the provisions of section 5.

Section 9(d) would require the Secretaries to provide an adequate opportunity for public involvement before implementing any of the Scientific Committee's recommendations and before establishing the boundaries of the Ancient Forest Reserves, the Ancient Forest Research Program, and the New Forestry Principles.

Section 9(e) would require the respective Secretaries, within 6 months after receipt of the Scientific Committee's recommendations, to determine whether or not to adopt its recommendations. If the Secretaries fail to adopt any or all of the recommendations, they would be required, at least 30 days before designating the Ancient Forest Reserves, to provide written notice to Congress of each deviation from the recommendations.

After the Ancient Forest Reserves are designated and the New Forestry Principles and the Ancient Forest Research Program are implemented, section 9(f) would require the Scientific Committee to review and advise the Secretaries on the operations of these programs and on any needed modifications, and to review any agency proposal for modification.

Section 9(g) would exempt the Scientific Committee from the Federal Advisory Committee Act.

SECTION 10. INTERIM MANAGEMENT

Section 10(a) would require the Secretary of Agriculture, for each of fiscal years 1992 through 1994, to offer at least 2,200,000,000 board feet per year from national forest lands within the Douglas fir Region, consistent with the limitations on timber sales during the interim period in section 10(c). During the interim period, this section would require the timber sale program for Region 6 of the Forest Service which includes part of the Douglas-fir Region, to be at least 2,600,000,000 board feet per year, consistent with the limitations in section 10(c).

Section 10(b) would require the Secretary of the Interior, for each of fiscal years 1992 through 1994, to offer at least 450,000,000 board feet per year from lands administered by the BLM within the Douglas-fir Region, consistent with the limitations on timber sales in section 10(c).

Section 10(c) would require the Secretaries, during the interim period between the date of enactment of this Act and the designation of the Ancient Forest Reserves, to follow the Scientific Committee's guidelines on tree diameter and canopy closure for the forest land base outside of Habitat Conservation Areas. This section specifies those areas in which no timber sale could occur.

Section 10(d) would require timber sales offered by the Secretaries under this section to be consistent with applicable land and resource management plans.

Section 10(e) would call for the requirements of this section to be incorporated as soon as practicable into applicable land and resource management plans. Such incorporation would be considered nonsignificant for the purposes of the National Environmental Policy Act of 1969, the Forest and Rangeland Renewable Resources Planning Act of 1974, the National Forest Management Act of 1976, and the Federal Land Policy and Management Act of 1976 (FLPMA), and would be effective upon public notice.

Section 10(f) would direct the Secretaries, during the interim protection period, to rank and prioritize all timber sales planned, prepared, or awarded from least ecological impact to higher impact considering stand size, structure, location, and past timber harvest. The Forest Service and the BLM would be required to evaluate all commercial timber available from lands not designated for interim protection according to this criteria, and would have to offer sales first from those lands of lowest impact before offering sales of greater impacts.

SECTION 11. ECONOMIC ASSISTANCE TO RURAL COMMUNITIES

For the first 5 fiscal years beginning on or after the date of enactment of this Act, section 11(a) would raise from 25 percent to 50 percent the amount of money distributed to counties under the Act of May 23, 1908 and section 13 of the Act of March 1, 1911 (16 U.S.C. 500), with respect to national forests in the Douglas-fir Region.

For the first 5 fiscal years beginning on or after the date of enactment of this Act, section 11(b) would raise from 25 percent to 50 percent the amount of the Oregon and California land grant fund distributed to counties in lieu of taxes under title 11 of the Act of August 28, 1937 (43 U.S.C. 1181f).

Within one year after enactment of this Act, section 11(c) would direct the Secretary of Agriculture, through the Forest Service's State and private forestry programs, to establish a special initiative to improve the productivity on State, county, and private lands in those counties that include lands that are part of the Douglas-fir Region. The Forest Service would be required to give hiring preference to workers from local communities within the Douglas-fir Region for the purposes of the initiative. The required contents of the initiative are specified.

Section 11(d) would require the Secretaries to establish, within one year after enactment of this Act, a program to improve the condition of Federal forest lands in the Douglas-fir Region. The Secretaries would be required to give hiring preference to workers from local communities within such region for the purposes of the program. The required contents of the program are specified.

Section 11(e) would require the Secretaries, within 6 months after enactment of this Act, to establish a community assistance task force at the national level to oversee assistance to rural communities in those counties that include lands that are parts of the Douglas-fir Region. Any rural community in the Douglas-fir Region that is impacted by declining Federal timber sales could request assistance from the task force. The responsibilities of the national task force are specified.

Section 11(f) would direct the President, within 6 months after enactment of this Act, to appoint a Forest Community Assistance Coordinator to coordinate the efforts of the Federal Government to alleviate social and economic dislocation caused by reductions in timber harvests on national forest lands and the public lands administered by the BLM. The duties of the Coordinator are listed. Unless otherwise specified, the provisions of this section would expire 10 years after enactment of this Act.

SECTION 12. JOB TRAINING PARTNERSHIP FUNDS

Under section 12(a), for 5 fiscal years after enactment of this Act, 5 percent of the Federal portion of moneys received from Federal timberlands each fiscal year would be deposited into a special fund to be established in the U.S. Treasury. Such moneys would be available without further appropriation, to be expended by the Secretary of Labor to help displaced timber workers as provided for in the Job Partnership Training Act.

Section 12(b) would amend Part B of title III of the Job Training Partnership Act (29 U.S.C. 1662-1662c), to add a new section 325 - Timber Worker Adjustment Program. The new section would -4-

- (a) Require the Secretaries to provide timely information to the Secretary of Labor on any Federal action pertaining to timber harvesting that will have a substantial impact on employment.
- (b) Require the Secretary of Labor to make grants to States and service delivery areas to provide training and adjustment assistance to eligible employees adversely affected by a Federal action of which he has been notified.
- (c) Require the Secretary of Labor to give priority to applications from areas which have the greatest number of eligible employees.
- (d) Authorize grants to States to be used for any purpose for which funds may be used under section 314 of the Job Training Partnership Act or this part.
- (e) Authorize grants to States for adjustment assistance to be used to provide job search allowances and relocation allowances to eligible employees.
- (f) Authorize not more than 5 percent of the funds obligated to carry out this section to be used for administration.
- (g) Require funds to carry out this section to be made available from the Special Job Training Fund established in section 12 of H.R. 1590.

SECTION 13. BUREAU OF LAND MANAGEMENT OREGON AND CALIFORNIA LANDS

Section 13 would require the Secretary of the Interior to conduct a study on consolidation of the BLM's Oregon and California lands through exchange, purchase, or donation, and to submit, 3 years after enactment of this Act, a report on the study's findings and conclusions to certain Congressional committees.

SECTION 14. PLANNING

Section 14 would provide, where applicable, for the provisions of this Act to be incorporated into Forest Service and BLM planning activities pursuant to applicable law.

SECTION 15. NATIONAL MANDATE

Section 15(a) & (b) would amend section 203(c)(3) of FLPMA, and appropriate sections of the Multiple-Use Sustained-Yield Act of 1960, and the Forest and Rangeland Renewable Resources Planning Act of 1974 to incorporate the protection of old growth forest ecosystems into the national mandates of the Forest Service and the BLM.

Section 15(c) would require the Secretaries to prepare a nationwide inventory of old growth forest ecosystems on national forests and public lands administered by the BLM. The inventory would have to be completed and submitted to Congress no later than 2 years after enactment of this Act for the Douglas-fir Region and no later than 3 years after enactment for the rest of the Nation.

SECTION 16. AUTHORIZATION OF APPROPRIATIONS

Section 16 would authorize to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SUMMARY OF H.R. 1309

SECTION 1. SHORT TITLE

Section 1 provides that the Act may be known as the "Community Stability Act of 1991."

SECTION 2. DEFINITIONS

Section 2 defines "resource-dependent", "Community" and "Secretary". A "resource-dependent community" is a community whose economy is substantially dependent on outputs or resources of a national forest or unit of public lands. The term "Secretary" refers to the Secretary of Agriculture with regard to national forest lands and the Secretary of the Interior with regard to public lands.

SECTION 3. POLICY

Section 3 states the policy that national forest and public lands be managed so as to avoid: 1) creating instability in resource-dependent communities, 2) creating barriers to access by disabled or elderly persons, and 3) creating disadvantages in employment, housing or career opportunities for minority groups.

SECTION 4. PLANNING

The Secretaries are directed to assure that planning for their respective jurisdictions satisfies a number of specific requirements, in order to achieve the policy stated in Section 3.

Draft Alternative Plans

The specific requirements include publication of "draft alternative plans", subsequent to preparing a community assessment covering the previous 10 years for each affected resource-dependent community.

Community Dependence Analysis

The assessment is to analyze and document the nature and extent of community dependence on that particular unit of public lands in terms of (A) available and achieved outputs for timber, mining, recreation and other community-related uses; (B) community and market demands and capabilities; (C) employment; (D) local government receipts, and (E) other relevant economic, social and environmental factors.

The community assessment must set forth how the agency has maximized opportunities for certain groups defined in Section 3.

Minimum Management Requirement

After completion of the assessment and prior to publication of draft alternative plans the Secretary must establish a minimum management requirement for various resource outputs (timber, mining, livestock),

motorized and non-motorized recreation, and other community-related outputs) sufficient to achieve the policy in Section 3.

Selection of Preferred Draft Alternative

Justification for selection of a "preferred draft alternative" and a final plan has to include analysis of community stability impacts.

Reduction of Commodity Output

If a plan would reduce a commodity output more than 4 percent below the average of the 5 preceding years, the Secretary must postpone full implementation of that reduction so that it is never greater than 4 percent per year compared to the average output of the 5 preceding years.

SECTION 5. REPORTS

Annual reports to Congress are required stating what steps were taken to achieve the policy of the bill and their success.

In addition there would be periodic evaluations of whether plans have achieved the policy set forth in the bill and if not, why. These published reports may require updated community assessments.

SECTION 6. REGULATIONS

The bill calls for promulgation of regulations including joint regulations further defining "resource-dependent community" and establishing procedures for the preparation of community assessments. The regulations are to be promulgated within 9 months.

SECTION 7. EFFECTIVE DATE

The effective date is January 1, 1992, but the provisions of Section 4 would be implemented with the first plan amendment begun after January 1, 1992.

STATEMENT OF VICTOR SHER

ATTORNEY

SIERRA CLUB LEGAL DEFENSE FUND

Thank you, Mr. Chairman and members of the Subcommittee. My name is Vic Sher and I am an attorney with the Sierra Club Legal Defense Fund. The Legal Defense Fund is a non-profit, public interest law firm, separate from the Sierra Club, that represents citizen groups in litigation to protect our nation's natural resources and to enforce federal environmental laws. In 1990, the Legal Defense Fund represented more than 100 organizations (with combined memberships of several million individuals) in over 75 lawsuits, many of them against agencies of the federal government for failure to comply with environmental laws.

I appreciate the opportunity to be here this morning. We were asked to provide the Subcommittee with the "legal lay of the land" in anticipation of Congressional action on an ancient forest protection package. In order to accomplish that goal most effectively, our testimony has been divided into three general categories.

First, I will briefly review the history of litigation over the northern spotted owl and its ancient forest habitat. Next, I will explain why the legislation introduced last week by Mr. Huckaby and others is an unwarranted and misdirected assault not just on our national forests, but on the courts and the citizens who rely on them to ensure that the government obeys the law. Finally, as requested, I will describe the legal framework under which an ancient forest protection bill should be drafted.

I. OVERVIEW

Mr. Chairman, our testimony can best be summarized by quoting from U.S. District Judge Dwyer's recent decision, after a two-week evidentiary hearing insisted upon by the timber industry, which barred the Forest Service from selling timber in owl habitat for the next nine months while it completes a new owl protection plan as required by the National Forest Management Act (NFMA). Judge Dwyer found that:

The records of this case and of [Northern Spotted Owl v. Lujan] show a remarkable series of violations of the environmental laws...Had the Forest Service done what Congress directed it to do -- adopt a lawful plan by last fall -- this case would have ended some time ago. More is involved here than a simple failure by an agency to comply with its governing statute. The most recent violation of NFMA exemplifies a deliberate and systematic refusal by the Forest Service and the FWS to comply with the laws protecting wildlife. This is not the doing of the scientists, foresters, rangers, and others at the working level of these agencies. It reflects decisions made by higher authorities in the executive branch of government. (Emphasis added).¹

Thus, the problems with forest management in the Pacific Northwest are caused not by the spotted owl, by lawsuits, or by judges. They are caused by the abject refusal of the federal land management agencies to implement and enforce the laws passed by this body. Under those circumstances, the solution is not to weaken the laws. Nor is it to insulate the

¹ Seattle Audubon Society v. Evans, No. C89-160WD (W.D. Wash, May 23, 1991) (Memorandum Decision and Injunction)

agencies' activities from administrative and judicial review. On the contrary, the only rational solution is to take whatever steps are necessary – from tighter laws to tougher enforcement to improved funding – to ensure that laws of the land are followed.

II. LITIGATION HISTORY

The long history of illegal agency actions regarding the spotted owl and its ancient forest habitat involves six federal statutes, five federal courts, four separate lawsuits, three federal agencies, two houses of Congress, and, as Judge Dwyer found, one "remarkable series of violations of the environmental laws." A table illustrating the relationships between these factors and actors is attached to our testimony and you may find it useful to refer to it as I describe the specific facts and outcomes of the cases (Table I).

It is not only environmental groups, however, that have sued the government over its spotted owl plans. Representatives of the timber industry have engaged in at least four lawsuits against the federal government in recent years. (See Table II).

Our testimony will focus only on the conservation groups' lawsuits and will describe them agency-by-agency. First, however, it is important to understand the context within which federal agency decisions are challenged and decided by the federal courts.

A. Administrative Law and Review in the Courts

The actions of federal land management agencies, like all other federal agencies, are subject to judicial review in accordance with the Administrative Procedure Act.¹ Not only are the agencies generally given broad discretion in carrying out their statutory responsibilities, but a court must uphold an agency's decisions unless it can be proven to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.²

Thus, the scope of judicial review under this standard is extremely narrow and a Court is not permitted to substitute its own judgment for that of the agency.³ Nevertheless, a Court is not required simply to give the agencies *carte blanche*. Rather, it will conduct a "searching and careful" inquiry, concentrating on whether the agency decision was "based on a consideration of the relevant factors and whether there has been a clear error of judgment."⁴

In short, it is not easy to prevail in court against federal agencies under the standards established by the Administrative Procedures Act. Only where an agency has

¹ 5 U.S.C. § 706.

² Friends of Endangered Species v. Jantzen, 760 F.2d 976, 981-982 (9th Cir. 1985).

³ Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 103 S.Ct. 2856, 2866 (1983).

⁴ Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 416, 91 S.Ct. 814, 824 (1971).

clearly abused its discretion -- as have the Fish and Wildlife Service, Forest Service, and Bureau of Land Management in the cases described below -- will the courts intervene.

B. Fish and Wildlife Service

In January 1987, a petition was filed pursuant to Section 4 of the Endangered Species Act (ESA) asking the Department of the Interior to list the northern spotted owl as threatened or endangered throughout its range. In July 1987, the Fish and Wildlife Service (FWS) initiated a Status Review of the spotted owl and sought public comment. A coalition of 29 conservation groups filed a second, more comprehensive petition supporting the owl's listing one month later.

The FWS expert on population viability, Dr. Mark Shaffer, concluded in November 1987 that all evidence "argues strongly for listing [the owl] as threatened or endangered at this time." Nonetheless, just one month later the FWS announced that listing the owl was not warranted.

In May 1988, 22 environmental groups filed suit in federal court alleging that the decision not to list the spotted owl was a violation of the ESA. U.S. District Judge Thomas Zilly agreed with the conservationists and ruled in November, 1988 that the agency acted arbitrarily, capriciously, and contrary to law.⁶ In particular, Judge Zilly found that

The Service disregarded all the expert opinion on population viability, including that of its own expert, that the owl is facing extinction, and instead merely asserted its expertise in support of its conclusions....Accordingly, the United States Fish and Wildlife Service's decision not to list at this time the northern spotted owl as endangered or threatened under the Endangered Species Act was arbitrary and capricious and contrary to law.⁷

Judge Zilly did not order the FWS to list the owl under the ESA. Rather, he gave the agency until May 1, 1989 to reconsider its decision. Just five days before expiration of the court's deadline, the FWS announced that it would propose listing the owl as threatened throughout its range. When that proposal was officially published in the *Federal Register* on June 23, 1989, however, it was not accompanied by a proposal to designate critical habitat. Instead, the agency claimed that such habitat was "not determinable."

Although Judge Zilly retained jurisdiction over the case, there were no further legal proceedings for nearly two years subsequent to his November, 1988 ruling. There were, however, a series of other developments that set the stage for the next round of litigation.

The General Accounting Office (GAO) released a report in February, 1989, which sharply criticized the Fish and Wildlife Service for its handling of the original spotted owl

⁶ *Northern Spotted Owl v. Hodel*, 716 F.Supp. 479 (W.D.Wash 1988).

⁷ *Id.* at 483.

listing petition.⁶ In particular, the GAO concluded

The process used by FWS in reaching its decision to deny the petition to list the spotted owl as an endangered species was beset by many problems...The peer-reviewed study team report was substantively altered to make it more suitable for supporting a no-list decision. Finally, while the decision-making process was largely undocumented, the official who made the no-list decision told us he decided to deny the listing petition at least partially in response to a belief that top FWS and Interior officials would not accept a decision to grant the petition. These problems raise serious questions about whether FWS maintained its scientific objectivity during the spotted owl petition process.⁷

On April 2, 1990, an Interagency Scientific Committee, made up of representatives of the FWS, Forest Service, Bureau of Land Management (BLM), and National Park Service, (known as the "Thomas Committee" for its leader, Dr. Jack Ward Thomas), issued a report and recommendations concluding "that the owl is imperiled over significant portions of its range because of continuing losses of habitat from logging and natural disturbances."

In light of the continued failure of various federal agencies to carry out their statutory mandates, it is worth pointing out that, according to the *Portland Oregonian*, in May, 1990 the Bush Administration pressured regional agency heads from the Forest Service, BLM, FWS, and others not to sign a joint letter endorsing the Thomas Committee's biological findings.

The FWS formally listed the spotted owl as threatened on June 22, 1990. However, not only did the agency ignore the ESA's requirement to designate critical habitat for the owl, it failed even to begin examining potential critical habitat and claimed, despite the existence of the Thomas Committee's study, that such habitat still was not determinable.

Just four days later, the Administration announced its response to the listing of the owl as threatened – a response that was designed to undercut both the Thomas Committee report and existing environmental laws. Among its proposals were:

- o convening a new inter-agency panel, headed by Agriculture Secretary Clayton Yeutter, to develop an alternative to the Thomas Report that minimized economic impacts;
- o asking Congress to insulate Forest Service and BLM management decisions from challenge in the courts; and
- o asking Congress to amend the ESA to expand the Endangered Species Committee.

⁶ ENDANGERED SPECIES: Spotted Owl Petition Beset With Problems, (GAO/RCD 89-79, Feb. 1989).

⁷ *Id.* at 12.

In addition, federal agencies were ordered to cease ongoing efforts to develop new, scientifically and legally defensible owl protection plans until the Yeutter Committee completed its review. However, after a two and a half month study of the issue, the Yeutter Committee released no formal report or recommendations. Instead, it issued a two and a half page press release that essentially reiterated the June response.

Meanwhile, in August, 1990, environmental groups went back before Judge Zilly to ask him to order the FWS to comply with the ESA mandate to designate critical habitat for the spotted owl. Six months later, on February 26, 1991, Judge Zilly ruled that the FWS had abused its discretion and acted arbitrarily, capriciously, and contrary to law for failing to designate critical habitat concurrently with its listing of the owl as threatened.¹⁰ However, the Judge did not designate critical habitat. Rather, he put the agency on a timetable for coming into compliance with the ESA.

On April 26, 1991, the FWS formally proposed its critical habitat designations. In spite of Judge Zilly's order to finalize the designation "as soon as possible", however, the agency continued its pattern of delay and non-compliance by announcing that it would conduct a two-stage comment period, which would delay the final decision until the end of this year – more than 16 months beyond the ESA's deadline.

Had the FWS complied with the spirit and letter of the ESA, it would have proposed listing the owl in December, 1987, and subsequently listed it with a critical habitat designation in December, 1988. Instead, the Administration engaged in a deliberate campaign to ignore and undermine the ESA, which has delayed both implementation of the Act and the stability and certainty that accompany it, for more than two and a half years.

C. Forest Service

The National Forest Management Act (NFMA) governs the Forest Service's management of our national forests. The most important mandate of the agency's regulations under that Act, as they relate to the spotted owl, provides that

[f]ish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area.¹¹

The regulations further require identification and selection of "management indicator species" in order to measure the impacts of various alternatives on fish and wildlife populations.¹² In 1982, the Forest Service identified the northern spotted owl as an indicator species for the health of ancient forest ecosystems.

¹⁰ Northern Spotted Owl v. Lujan, (Order Granting Plaintiffs' Motion for Summary Judgment and Motion to Compel Designation of Critical Habitat, No. C88-573Z, Feb. 26, 1991).

¹¹ 36 C.F.R. § 219.19.

¹² 36 C.F.R. § 219.19(a)(1).

Pursuant to the NFMA regulations, the Forest Service issued a Regional Guide for Region 6 (Oregon and Washington) in 1984, which directed forest supervisors to analyze, during the planning process, the effects of protecting at least 375 pairs of owl. That number was subsequently increased to 551.

A coalition of environmental groups administratively appealed the Regional Guide, claiming that its standards and guidelines were inadequate and that an Environmental Impact Statement was required. Although Forest Service Chief R. Max Peterson denied the appeal, his decision was reversed by the Deputy Assistant Secretary, Douglas MacCleery, who ordered the agency to prepare a supplemental EIS (SEIS) with new standards and guidelines for protecting the owl.

The SEIS was completed in December, 1988 and the Forest Service Chief, F. Dale Robertson, signed a Record of Decision (ROD) implementing the new owl protection plan. This plan, which established a network of Spotted Owl Habitat Areas (SOHAs) on national forests in Oregon and Washington, was appealed by both environmental and industry groups. Both appeals were denied by the Assistant Secretary of Agriculture.

Thus, in early 1989, the Seattle Audubon Society and eight other environmental groups filed suit in federal district court in Seattle claiming that the ROD violated the NFMA, the National Environmental Policy Act (NEPA), and the Migratory Bird Treaty Act (MBTA). The Washington Contract Loggers Association (WCLA) also challenged the adequacy of the ROD. The two cases were consolidated in front of Judge William Dwyer and placed on an expedited hearing schedule.

Shortly thereafter, on March 24, 1989, the court issued a preliminary injunction, which temporarily deferred certain specified timber sales in spotted owl habitat until the final hearing, which had been set for June 13. One month after issuance of the injunction, the FWS independently announced its decision to propose listing the owl as threatened.¹⁹ In the wake of that announcement, the Forest Service asked Judge Dwyer on May 11 to suspend further proceedings pending completion of discussions with FWS.

At the same time, the agency told the court it would submit interim measures within 30 days to protect owl habitat during the FWS listing process. Not only did the Forest Service fail to submit such a plan, it went back to Judge Dwyer on August 24, 1989 and asked the court for permission to proceed with 11 timber sales in owl habitat. Since there still was no owl protection plan in place, the court denied the Forest Service's motion on September 12 and ordered an expedited final hearing in the case.

Thus, throughout the first six months of this litigation it was the Forest Service, not the environmental groups or the court, that consistently sought to delay a final ruling. In the meantime, the agency was urging Congress to adopt legislation that would get them out of the mess they had created. The result was section 318 of the FY 1990 Interior and Related Agencies Appropriations Act, signed into law on October 23, 1989. According to the

¹⁹ See discussion under "Fish and Wildlife Service" *supra*.

Conference Report accompanying the measure, section 318 was needed "because of the failure of the [Forest Service and BLM] to take steps on their own to resolve these matters in a manner which could have prevented the current situation."¹⁴

Among the many provisions of section 318 were some that

- o established Forest Service and BLM timber sale targets for fiscal years 1989 and 1990;
- o placed some limits on logging of ecologically significant old growth;
- o suspended Judge Dwyer's injunction, as well as one issued against the BLM in a separate case, by deeming that management of the public forests in Washington and Oregon in accordance with section 318 was "adequate consideration for the purposes of meeting the statutory requirements that were the basis of the injunctions;"
- o barred courts from issuing any temporary or preliminary injunctions against Forest Service or BLM timber sales and established an expedited judicial review process; and
- o directed the Forest Service to review and revise its spotted owl plan by September 30, 1990.

In early November, the environmental groups asked Judge Dwyer to declare section 318 unconstitutional on the grounds that it impermissibly interfered with the judicial branch by telling the court how to interpret NFMA, NEPA, FLPMA, and the MBTA. The judge disagreed, however, concluding instead that section 318 was merely a temporary amendment of those laws and, as a result, vacated the preliminary injunction.¹⁵ Judge Dwyer reinforced that interpretation on January 30, 1990 by ruling that the only claims that could be lodged against Forest Service timber sales in FY 1990 would be for violations of section 318; any claims based on the NFMA, NEPA, or MBTA would be summarily rejected.

The environmental groups appealed the constitutionality ruling to the Ninth Circuit Court of Appeals.

In the meantime, several timber sales were challenged by the environmental groups on the grounds that they violated the standards established by section 318. Judge Dwyer enjoined the first of these challenged sales on May 11, 1990. That decision was affirmed by the Ninth Circuit Court of Appeals on August 27.

¹⁴ H. Rpt. 101-264 (Oct. 2, 1989).

¹⁵ Those statutes included the NFMA, FLPMA, NEPA, and the MBTA.

¹⁶ SAS v. Robertson, Memorandum Decision Re: Constitutionality (Nov. 14, 1990).

Six additional sales were challenged on the same grounds during the remainder of FY 1990. Of these, three were enjoined, two were withdrawn by the Forest Service after being challenged, and one was upheld by the court.

In early April, 1990, at a hearing before this Subcommittee, the Interagency Scientific Committee headed by Dr. Jack Ward Thomas released its "Conservation Strategy for the Northern Spotted Owl." The Forest Service subsequently began to incorporate the Thomas Committee's findings into its ongoing review of the December 1988 ROD – as mandated by Congress in section 318.

That review came to a screeching halt a short time later, however, when the Secretary of Agriculture ordered the Forest Service to cease its work on a new owl plan. Not only was that decision never made public, but the Forest Service was kept in an administrative straitjacket by the Administration until just two days before the section 318 deadline for implementing a new owl plan.

On September 28, 1990, the U.S. Department of Agriculture announced that the Forest Service was vacating its December 1988 ROD and that, in its place, the agency would act in a manner "not inconsistent" with the Thomas Report.¹⁷ The Department made no pretense of adopting the Thomas strategy. Nor did it provide an opportunity for public input. Nor did it prepare an environmental impact statement analyzing the effects of, and alternatives to, the decision. Nor did the Forest Service comply with other rulemaking procedures.

Just 10 days earlier, the Ninth Circuit Court of Appeals issued its long-awaited ruling regarding the constitutionality of section 318. The court struck down the "adequacy" provisions for violating the separation of powers doctrine as it applies to the judiciary.¹⁸ The court of appeals held that the provision of section 318 deeming compliance with that section to be adequate for purposes of complying with the NFMA, NEPA, FLPMA, and MBTA was an unconstitutional attempt to adjudicate rather than to legislate.

These two decisions – the Forest Service Federal Register notice and the Ninth Circuit ruling that part of section 318 was unconstitutional – set the stage for the most recent court proceedings. After having been frustrated at every turn, first by the Administration's intransigence and then by section 318, conservationists now saw an opportunity to achieve real protection for the spotted owl and ancient forest. In particular, the Ninth Circuit ruling meant that the requirements of NFMA, NEPA, FLPMA, and the MBTA applied to all Forest Service and BLM timber sales under section 318.

Thus, the environmental groups went back before Judge Dwyer seeking an injunction against the last 12 FY 1990 timber sales that were within the 15-day statute of limitations established by section 318 for the filing of such claims. The court held that all 12 sales violated the NFMA because the Forest Service did not have in place any standards

¹⁷ 55 Fed. Reg. 26114.

¹⁸ SAS v. Robertson, 914 F.2d 1311 (9th Cir. 1990).

and guidelines to ensure the viability of the spotted owl.

Next, they challenged six FY 1990 timber sales, again on NFMA, NEPA, and MBTA grounds, that had been offered for sale but not yet awarded to a timber company. The plaintiffs could also have challenged other FY 1990 sales that had already been sold, but decided instead to limit the motion to the six unawarded sales. Although these sales were beyond the 15-day statute of limitations set by section 318, the environmental groups maintained that since they had been prohibited by an unconstitutional statute from raising these claims during the original 15-day period, the statute of limitations should start over on the date of the Ninth Circuit ruling (September 18).

Judge Dwyer rejected the plaintiffs' argument on September 29, 1990, but was reversed by the Ninth Circuit on April 26, 1991. The appellate court ruling not only affected those six cases, but it opened the door for environmental groups to challenge all timber sales that had been awarded under section 318. These groups decided, however, as an act of good faith, not to seek an injunction against any sales other than the six that had been challenged initially. Before the environmental plaintiffs could get back before Judge Dwyer to get an injunction against those sales, timber companies began logging on two of them. By the time Judge Dwyer could schedule an emergency hearing, those sales were already 70% logged. However, on May 23, 1991, an injunction was granted with respect to the other four sales.

Meanwhile, in October 1990, the environmental groups also challenged the September 28 Forest Service decision to act "not inconsistent" with the Thomas Report on the grounds that the decision violated the NFMA, NEPA, and the MBTA. The Forest Service argued in response that its duty to maintain a viable population of owls pursuant to the NFMA was suspended once the owl was listed as threatened under the ESA.

Judge Dwyer rejected the Forest Service argument on March 7, 1991 and ruled that the Forest Service's proposal to log spotted owl habitat "not inconsistent" with the Thomas Report violated the NFMA. The judge did not issue an injunction with that ruling, however. Instead, he ordered the Forest Service to begin working on a new owl protection plan immediately. He also asked the parties to submit additional briefs supporting their respective proposals for injunctive relief.

The environmental groups asked the court to put the Forest Service on a nine-month timeline for completing its new owl protection plan and to enjoin timber sales in spotted owl habitat on the 17 spotted owl forests of Washington, Oregon, and northern California until that plan was completed. The Forest Service asked the judge to allow them to continue logging in a manner "not inconsistent" with the Thomas Report for an unspecified period of time – in spite of the court's prior ruling that their September 28 proposal to do so violated the NFMA. The timber industry, which had intervened in the case, asked the judge to hold a full evidentiary hearing to examine the effects of any injunction against logging in owl habitat.

In response to the timber industry's request, Judge Dwyer scheduled an eight-day trial during the first two weeks of May, 1991. At the hearing, attorneys representing the Forest Service, the timber industry, and the environmental groups examined and cross-

examined witnesses on the following issues:

- o the time period to be allowed for the Forest Service to adopt a spotted owl plan in compliance with the NFMA;
- o whether the injunction should take into account the fact that the Forest Service has proposed to delete from its NFMA regulation the viable populations requirement if a species has been listed under the ESA;
- o whether it is possible, prior to the agency's adoption of a lawful viability plan, to identify timber sales in owl habitat that would be permissible under that plan;
- o the effect on the northern spotted owl of allowing the Forest Service to continue selling timber "not inconsistent" with the Thomas Report pending completion of a lawful viability plan;
- o the amount of timber available for logging on national forest that would not jeopardize the owl; and
- o the effect on the timber industry of enjoining Forest Service timber sales in suitable owl habitat pending adoption of a lawful viability plan.²²

In addition, during the trial the court asked both sides for expert testimony on the long-term effects – on the owl, the timber industry, and the regional economy – of making all remaining old growth (not otherwise reserved) available for logging.

After considering all of the evidence presented at the trial, Judge Dwyer issued an order on May 23, 1991, which gave the Forest Service one year from his original ruling – until March 5, 1992 – to implement "revised standards and guidelines to ensure the northern spotted owl's viability, together with an environmental impact statement, as required by the NFMA and its implementing regulations."

In addition, the Forest Service was barred from "auctioning or awarding any additional timber sales from Forest Service Regions Five and Six that would log suitable owl habitat for the northern spotted owl...until the said standards and guidelines are in effect."

For the past two and a half years, the Forest Service – largely at the Administration's behest – has sought to avoid complying with laws to protect the spotted owl. In 1989, Congress attempted, albeit in an unconstitutional way, to provide the agency with "a 1-year breather to straighten out its own land management policies..."²³ Yet the

²² *SAS v Evans*, (Order Setting Evidentiary Hearing RE Injunctive Relief and Directing the Forest Service to Proceed in Compliance with National Forest Management Act, No C89-160WD. W.D.Wash. April 1, 1991).

²³ Statement of Rep. Les AuCoin, 135 Cong. Rec. , at H-6506 (Oct. 3, 1989).

Administration still refused to budge. It has taken 19 months and a series of adverse court rulings to get the agency back on track. It would be a serious mistake to enact legislation that undermines the process either directly or by insulating Forest Service actions from administrative or judicial review.

D. Bureau of Land Management

Public lands managed by the Bureau of Land Management (BLM) are governed primarily by two federal statutes: the Federal Land Policy and Management Act (FLPMA) and the Oregon and California Lands Act (OCLA).

In 1987, environmental groups in the Pacific Northwest asked the BLM to prepare a supplemental EIS in order to analyze new information concerning the effects of the agency's timber activities on the survival of the northern spotted owl. The BLM concluded, however, that a supplemental EIS was not needed even though it planned to sell more than 200 timber sales on known owl habitat within the following three years.

As a result, a lawsuit was filed in October, 1987 alleging that the BLM violated NEPA by failing to disclose, analyze, and consider the possibility that the northern spotted owl would go extinct if the agency were to proceed with its planned timber sale program. The environmental plaintiffs also claimed that the timber sale plan violated the MBTA by authorizing "takings" of owls without the requisite permits. Finally, they challenged the agency's failure to manage its lands for multiple use objectives as required by FLPMA and the OCLA.²¹

In April 1988, U.S. District Judge Helen Frye dismissed the action on the grounds that section 314 of the FY 1988 Interior and Related Agencies Appropriations Act prevented federal courts from hearing the case.²² In May, the Ninth Circuit granted an emergency motion for an injunction pending appeal, which halted BLM timber sales containing identified stands of ancient forest within 2.1 miles of known spotted owl sites. The alternative, of course, would have been to allow the BLM to continue selling timber during

²¹ Portland Audubon Society v. Hodel, No. 87-1160-FR (D.Or.) (Complaint filed Oct. 10, 1987).

²² Section 314 was included under the general National Forest System provisions in the FY 1987 Act. In subsequent years it appeared in Title III (Miscellaneous Provisions) of the Act, as Section 314 in FY 1988 and 1989, and as Section 312 in FY 1990. It expressly authorized the Forest Service and BLM to continue managing their lands under existing plans. It also stated:

Nothing shall limit judicial review of particular activities on these lands: Provided however, That there shall be no challenges to any existing plan...[with respect to BLM] solely on the basis that the plan does not incorporate information available subsequent to the completion of the existing plan; Provided further, That any and all particular activities to be carried out under the existing plans may nevertheless be challenged.

the appeal – thereby allowing tens of thousands of acres of owl habitat to be lost forever.

In January, 1989, the Court of Appeals reversed Judge Frye, holding that it could not conclude that the lawsuit on its face violated section 312. While the case was sent back to the District Court for further proceedings, the Ninth Circuit left any decision regarding the appropriateness of injunction to Judge Frye.

Within days of the Ninth Circuit's ruling, BLM tried to sell several timber sales containing owl habitat. Judge Frye granted the plaintiffs' motion for an emergency stay and, following an extensive evidentiary hearing, their motion for a preliminary injunction. This order, like the earlier Ninth Circuit order, halted BLM sales of stands of ancient forest within 2.1 miles of known owl sites. Judge Frye explained her decision to issue the preliminary injunction as follows:

The destruction of owl habitat without compliance with law is a significant and irreparable injury. Old growth forests are lost for generations, and no amount of monetary compensation can replace the environmental loss....

The harm to defendants [BLM] and defendant-intervenor [the timber industry] from an injunction limiting logging of old growth timber is economic and limited to such time as the Ninth Circuit reverses this court's decision or the BLM complies with NEPA procedures. The court finds that the balance of irreparable harm weighs in favor of the plaintiffs.²

Two months later, in May, 1989, Judge Frye found that BLM had indeed violated NEPA:

The decision of BLM not to supplement the Environmental Impact Statements prepared between 1979 and 1983 was arbitrary and capricious in light of the new, significant, and probably accurate information that the planned logging of spotted owl habitat raises uncertainty about the ability of the spotted owl to survive as a species.³

However, Judge Frye again concluded that section 314 of the Interior Appropriations Act, which had been re-enacted for FY 1989, prevented her from granting relief, and she dismissed the case.

The Ninth Circuit again issued an emergency injunction pending its resolution of the appeal. On September 6, 1989, however, the court concluded that section 314 barred any NEPA challenge to BLM timber sales.⁴ However, the Court of Appeals again reversed Judge Frye on the non-NEPA claims, which did not rely on new information and therefore

² Portland Audubon Society v. Lujan, No. 87-1160-FR (D.Or. Mar. 29, 1989).

³ Portland Audubon Society v. Lujan, 712 F.Supp. 1456, 1485 (D.Or. 1989).

⁴ Portland Audubon Society v. Lujan, 884 F.2d. 1233 (9th Cir. 1989).

id not implicate section 314.

Thus, on October 23, 1989, the conservation groups renewed their motion for summary judgment in district court. Judge Frye dismissed those claims again in December on the grounds that section 318 of the FY 1990 Interior Appropriations Act, which Congress had enacted in two months earlier, prohibited any challenges based on those statutes during FY 1990.

Judge Frye's ruling was again appealed to the Ninth Circuit, consolidated this time with the appeal of Judge Dwyer's similar ruling.²⁶ On September 18, 1990, the Ninth Circuit reversed Judge Frye and struck down the provision of section 318 putatively barring claims under FLPMA, OCLA, and MBTA because it violated the separation of powers doctrine of the U.S. Constitution.²⁷

In December 1990, the plaintiffs renewed, for the fourth time, their claim that the BLM's timber sale program violated FLPMA, NEPA, OCLA, and the MBTA. In May 1991, Judge Frye ruled that section 314 had effectively dismissed the original lawsuit and, therefore, that the plaintiffs must file a new, separate complaint in order to raise their claims. Further action is pending.

Meanwhile, in September 1990, BLM Director Cy Jamison announced that his agency would follow a new two-year plan (dubbed the "Jamison Strategy") that ignores key provisions of the Thomas Report and allows logging levels substantially greater than those that would be permitted if the agency adopted Thomas. Like the Forest Service, the BLM made no pretense of adopting the Thomas report, nor did it provide an opportunity for public notice and comment requirements, prepare an environmental impact statement analyzing the effects of, and alternatives to, the decision, or comply with other rulemaking procedures.

Thus, in April 1991, environmental groups filed suit in U.S. District Court in Oregon, alleging that the Jamison Plan violated the Endangered Species Act because the BLM failed to submit the proposal to FWS for consultation as required by section 7 of the ESA. Under section 7 of that Act, federal agencies must

in consultation with and with the assistance of the Secretary [of the Interior], insure that any action authorized, funded, or carried out by such agency...is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical habitat]....²⁸

No judge has yet been assigned to hear this case.

²⁶ See text accompanying notes 13-15 *supra*.

²⁷ *SAS v. Robertson, PAS v. Lujan*, 914 F.2d 1311 (9th Cir. 1990).

²⁸ 16 U.S.C. § 1536(a)(2).

Four years after environmental groups first asked the BLM to analyze the effects of its timber sale program on the spotted owl, nothing has been done by the agency. Instead of adopting a legally and scientifically adequate plan for protecting the owl and its ancient forest habitat, the BLM has consistently stonewalled both citizens and the courts. In the process, the agency has actively sought to weaken existing environmental laws, insulate its activities from review in the courts, and proposed to continue intensively managing its lands primarily for timber production – irrespective of the impacts on the spotted owl.

III. PENDING LEGISLATION

This section of our testimony will focus on H.R. 2463, the "Forest and Families Protection Act of 1991." Although we only received a copy of the bill within the last 24 hours, we have seen enough to know that it contains numerous provisions that seriously undermine – or even repeal – existing environmental laws and unjustifiably interfere with long-established judicial and administrative processes. As a result, the Sierra Club Legal Defense Fund is adamantly opposed to this legislation.

H.R. 2463 is very similar to the legislation introduced by the timber industry last year: the "National Forest Plan Implementation Act." Like its predecessor, H.R. 2463 is a timber industry wish list that would turn our national forests into tree farms. Under the guise of protecting ancient forests and promoting economic stability in the Pacific Northwest, this bill replaces "multiple use" with "laissez-faire forestry" on every national forest across the country.

A. Appeals and Litigation are Not the Cause of Forest Management Problems

In its fourteenth finding, H.R. 2463 alleges that forest management problems in various national forests have been caused by "administrative appeals and litigation." This claim, which apparently provides the basis for the bill's many limits on administrative and judicial review, is both inaccurate and misleading.

1. Administrative appeals

There is no evidence to support the proposition that administrative appeals are delaying forest plans or their implementation. In February, 1989, the General Accounting Office (GAO) examined the appeals process in Forest Service Regions 1 and 6, which together account for 55% of all timber sold on the national forests.³⁰ The GAO found that:³⁰

- (1) appeals of forest plans did not delay any timber sales because the Forest Service requires separate appeals to be filed on specific timber

³⁰ Forest Service: Information on the Forest Service Appeals System (GAO/RCED-89-16BR, February 16, 1989). See also Information on the Forest Service Appeals System (Statement of John W. Harman, GAO/T-RCED-89-43, May 18, 1989).

³⁰ Id. at 23.

sales;

- (2) only six percent of the total timber sale volume offered in Regions I and VI in fiscal year's 1986 and 1987 was appealed; and
- (3) less than one percent of the total timber sales volume was delayed by these appeals.

Moreover, the GAO concluded that of the delays that did occur, nearly all were caused by the Forest Service's failure to meet the required deadlines – in many cases because the agency had not completed the necessary environmental analyses in time for appeals to be processed.²¹

It would be understandably disturbing to the Forest Service if some of this admittedly small percentage of timber sales that are delayed were held up by frivolous appeals. Although the GAO did not address this issue directly, its conclusion that the Forest Service was responsible for most of the delays suggests that frivolity of appeals was not a factor. More importantly, the Forest Service has a provision in its current appeals regulations that expressly requires dismissal without review of frivolous appeals. The regulation states:

A Reviewing Officer shall dismiss an appeal and close the appeal record without decision on the merits when...[t]he requested relief or change cannot be granted under law, fact, or regulation....²²

It is clear, then, that based on the available data, the appeals process is not being abused by appellants to cause intentional delay. To the extent that delays occurred under the old appeals regulation – and they were the exception, not the rule – they were largely attributable to the agency's failure to meet its own deadlines. Where a frivolous appeal is filed, the agency has ample authority, indeed is mandated, to dismiss it.

Concerns regarding the cost of handling the appeals is understandable, particularly in times of tight budgets. However, budgetary constraints ought not be used as an excuse to insulate agency decision making from review. On the contrary, the solution is to allocate – or if necessary, reallocate – resources to ensure that the environmental analyses prepared in support of proposed projects are legally and scientifically adequate and are conducted in a timely manner. As the recent Forest Service Advance Notice of Proposed Rulemaking for National Forest System Land and Resource Management Planning correctly points out: "[E]fficient and effective compliance with the requirements of NEPA is an integral part of the successful and timely implementation of a forest plan."²³

²¹ *Id.* at 16-18, 23-25.

²² 36 C.F.R. § 217.11(a)(2) (emphasis added).

²³ 56 Fed. Reg. 6514.

This theme is underscored by the comments of the Forest Service appeals and litigation manager, Larry Hill, at a Congressional Research Service Symposium on Appeals in November 1989. The Symposium was held in the wake of Congressional debate over the Forest Service timber sale program in the Pacific Northwest and its enactment of legislation temporarily restricting administrative and judicial appeals. Rather than find fault with the appellants, Mr. Hill echoed the GAO's findings regarding the appeals process, concluding that:

Long run successful resolution of timber flow problems will require major funding commitments to rebuild timber sale inventories, and to conduct for them the legally sufficient environmental analyses. As the GAO points out, this is the problem, this is the opportunity. Legislative attempts to modify agency NEPA, planning, or appeal procedures simply puts attention in the wrong place and postpones the inevitable.³

In sum, the Sierra Club Legal Defense Fund does not believe that the Forest Service appeals regulations are in need of amendment. There is no data establishing either that a significant problem exists or that there is a need for change. Further attempts to tinker with the appeals process are more likely to insulate agency decision making than to streamline the appeals process. Instead, the Forest Service should heed the advice of the GAO and Mr. Hill: allocate additional resources to ensuring that adequate environmental analyses are prepared in a timely manner for all proposed activities on the national forests.

2. Litigation

The claim that there is a "litigation crisis" in the Pacific Northwest is another example of the "shoot the messenger" philosophy that underlies the timber industry's latest effort to log our remaining ancient forests.

Anyone who is continually caught violating the law is likely to complain about a "litigation crisis." But there is an easy way to solve that kind of crisis: obey the law. If there is any crisis on our national forests, it is a "management crisis" because the Forest Service has consistently ignored both Congress and the courts by refusing to adopt a legally and scientifically adequate plan for protecting the spotted owl. Instead of obeying the laws, the Administration has asked Congress to suspend them by restricting judicial review of their activities. Such limits on citizens' access to the courts have no place in a democracy and render the Constitution's mandate that the President "faithfully execute" the laws no more than a hollow promise.

As Judge Dwyer pointed out recently: "The problem here has not been any shortcoming in the laws, but simply a refusal of administrative agencies to follow them. This invokes a public interest of the highest order: the interest in having government officials act in accordance with the law."

³ Statement of Larry Hill, in Baldwin, Pamela, "Appeals of Federal Land Management Plans and Activities: A Report on a CRS Research Workshop", CRS Report No. 90-104 A (February 20, 1990), at Appendix 1, page 4 (emphasis added).

Thus, it is clear that neither litigation nor administrative appeals can be blamed for Forest Service management problems. Rather, the root of those problems can be found in the agency's failure to carry out its responsibilities faithfully under NEPA, the NFMA, the ESA, and other federal environmental laws.

B. An Assault On Our Environmental Laws

H.R. 2463 proposes to sabotage – if not outright repeal – many of our nation's most important environmental laws. For example, Section 304 repeals all environmental and other laws and replaces them with a mandatory interim timber sale program for three years. Moreover, Section 304 also overturns all existing court orders or injunctions, including the recent rulings that the FWS must designate critical habitat for the spotted owl under the ESA and that the Forest Service must prepare a new owl protection plan under the NFMA.

In addition, Section 107 requires the Forest Service to submit its forest plans for consultation under the ESA – but it permits only one such consultation for the life of the plan (until it is amended or revised). It is impossible, however, for the agencies to consult over activities that are not yet planned. For example, even where timber sales are identified in a forest plan, the vast majority have not yet been subjected to the pre-decisional environmental analyses required by the NFMA and NEPA. Even the Forest Service expressly acknowledges this fact in virtually every one of its forest plans:

"National Forest planning is a dynamic process, and the products – Forest Plans – are similarly dynamic. Forest Plans can and should be modified if conditions warrant. As management goals are applied on the ground or [sic] goals and objectives, or activities the goals generate, may no longer be appropriate. In such instances, activities may be tailored to fit the resource, or planning objectives as stated in the Plan may be amended. Plans do not apply direction in site-specific management activities. It would be unrealistic and wrong to try to identify, analyze, and schedule the myriad projects or activities that occur on a National Forest. Instead, this type of site-specific planning occurs at the project-level planning stage."²⁸

Under H.R. 2463, however, there would be no opportunity to consult on these project-level decision as would otherwise be required by Section 7 of the ESA. Excluding interagency consultation on these countless agency actions could be devastating to species that are supposed to be receiving the protections of the ESA.

Finally, Section 111 of H.R. 2463 purports to suspend the ESA, the MBTA, and the wildlife protection provisions of the NFMA and FLPMA once the sham consultation process in Section 107 is completed. This is no less than an end-run around the ESA and must not be permitted.

²⁸ Gifford Pinchot NF Plan (V-11); Rogue River NF Plan (5-20); Siskiyou NF Plan (V-17); Siuslaw NF Plan (V-46); Umpqua NF Plan (V-7); Olympic NF Plan (V-6) (Emphasis added)

Even while the provision was being debated, many Senators recognized the difficulty in distinguishing between forest plans and activities carried out under the plans. As Senator Baucus explained:

While a distinction between NEPA challenges to individual activities and NEPA challenges to plan[s] can be made in theory, these types of distinctions are almost impossible to make in fact. Plans provide the basis for individual activities. Although individual forest activities such as a timber sale often involve the development of new data and, therefore, an expanded NEPA review, they are generally based upon the same plan. There is no clear fixed line between the two actions.

An artificial legislative distinction between plans and activities could be drawn, but its language would need to be so vague that it could actually lead to more litigation and delay rather than less. We would arrive at exactly the opposite effect that I desire to see.⁴¹

In order to avoid that result, the provision was modified prior to final adoption to ensure that the National Environmental Policy Act (NEPA) and other environmental laws still apply to Forest Service activities. Senator Baucus, one of the sponsors of the modifying amendment, warned that: "While we need to avoid judicial challenges which overturn entire plans, it is critically important that individual activities be fully challengeable."⁴²

In 1989 alone, however, several federal courts, struggling to interpret the provision, ruled it barred judicial review even of individual agency activities when they are based on outdated plans or fail to take into account new and significant information. As those cases illustrate, what might seem to be a straightforward distinction between challenges to plans and challenges to implementing activities has proven difficult or impossible to draw. By creating two separate tracks for forest challenges in the federal courts, H.R. 2463 creates – unnecessarily – a whole new issue requiring adjudication in forest planning litigation.

E. Undermining Existing Legal Standards

H.R. 2463 addresses several existing standards relating to judicial review of agency action. Those existing standards generally make sense. There is no need to inject ambiguity – which will inevitably lead to more litigation – into them.

1. The exhaustion requirement

H.R. 2463 prohibits judicial review of challenges to plans, minimum management requirements, or implementing activities unless the challenger has exhausted administrative

⁴¹ 132 Cong. Rec. S.12636 (September 16, 1986).

⁴² *Id.* (Emphasis added).

remedies.⁴⁰ But is already well-settled that parties aggrieved by administrative action must exhaust their administrative remedies before taking their challenge to court. This requirement is enforced vigorously because it ensures that judicial resources are not wasted.

It is worth noting that the federal courts have developed an extensive body of caselaw governing the few exceptions to the exhaustion requirement. Thus, courts do not require exhaustion if the issues posed are purely legal and do not depend on agency "expertise;" where administrative remedies are inadequate or not efficacious; where pursuit of such remedies would be a futile gesture; where irreparable injury will result unless immediate judicial review is permitted; or where the issue is one of great public importance.⁴¹ It is not clear whether H.R. 2463 intends to eliminate or restrict these important exceptions to the exhaustion doctrine.

2. The requirement of review on the record.

H.R. 2463 directs that judicial review be "limited to the administrative record...."⁴² As described above, the informal Forest Service appeals process is unsuited for direct review by the courts of appeal as would be required under H.R. 2463 for challenges to plans or minimum management requirements.

Furthermore, although H.R. 2463 provides for judicial review of implementing activities in the district courts, there is already a well-established requirement in administrative law for such review on the record. As is the case with the provisions of H.R. 2463 regarding exhaustion of remedies, it is not clear whether these new proposals are meant to codify or to alter the existing standards. The existing rule works; there is no need to render it ambiguous, or to amend it so as to impair judicial review of agency action.

F. Citizen Access to the Courts

While there are many provisions of H.R. 2463 that are designed to insulate Forest Service and BLM activities from administrative and judicial review, there is one that erects a stone wall in front of the federal courts. Section 307 of the bill bars any legal challenges to the interim timber sales program under any law for the entire three year interim period, other than for non-compliance with the provisions of Title III of the Act.

Stripping the federal courts of jurisdiction to review and enforce the nation's environmental laws is absolutely unacceptable.

⁴⁰ See, e.g., Sections 211, 212, and 213.

⁴¹ See, e.g., *Sierra Club v. Penfold*, 857 F.2d 1307, 1322 (9th Cir. 1988); *Park County Resources Council v. USDA*, 817 F.2d 609, 619-20 (10th Cir. 1987); *Foundation on Economic Trends v. Heckler*, 756 F.2d 143, 156 (9th Cir. 1985); *Aleknagik Native Ltd. v. Andrus*, 648 F.2d 496, 499 (9th Cir. 1980).

⁴² See Sections 211, 212, and 213.

G. Summary

H.R. 2463 uses inaccurate and misleading assumptions as a springboard to sabotage the National Environmental Policy Act, the National Forest Management Act, and other environmental laws. Its provisions that rewrite longstanding rules of administrative and judicial procedure are no more than a thinly veiled attempt to turn our national forests into tree farms by cutting off judicial review of Forest Service activities.

These proposals to provide "stability and certainty" to national forest management are made at the expense of citizens' rights and dwindling environmental resources. These proposals are all the more disturbing in light of the recent GAO report identifying the Forest Service as the cause of any forest management problems.

Thus, the solution is not to cut off citizens' access to the courts, nor to skew longstanding judicial and administrative processes in favor of the timber industry. Rather, the solution is to enhance the Forest Service's ability to comply with its environmental mandates by providing increased training and funding to carry them out.

IV. LEGAL FRAMEWORK FOR ANCIENT FOREST LEGISLATION

As the debate in Congress continues over the future of the Northwest's ancient forests, the timber industry has launched another desperate assault on our environmental laws. The legislation they have proposed would turn our national forests into tree farms and run roughshod over the judiciary.

It would be a serious mistake for Congress to heed the song of these sirens by limiting citizens access to the courts to enforce environmental laws. There is no litigation crisis over our public lands. Nor are courts to blame for the problems of the timber industry and the federal timber agencies in the Northwest.

On the contrary, the timber industry is in the midst of a major transition – and has been for more than a decade – as jobs are replaced by automation or exported to the Far East in the form of unprocessed logs. These are changes that will occur regardless of whether the spotted owl or ancient forests are protected.

Chief Justice John Marshall, in 1803, called the right to seek judicial review of government actions "the very essence of civil liberty." As illustrated by the cases described in our testimony – and most clearly by Judge Dwyer's recent ruling – the Forest Service and BLM have consistently violated the law. Sanctifying their illegal actions by stripping the courts of authority to hear cases under federal environmental laws, as H.R. 2463 would do, only exacerbates the ecological harm those laws were intended to prevent.

In addition, denying citizens access to the courts sets a dangerous and disturbing precedent that might be used in an attempt to undermine other important laws protecting our civil and constitutional rights. That is why a coalition of 39 civil rights, consumer, health, and environmental groups sent a letter to every House and Senate member in April opposing legislation limiting citizens access to the courts. (See attached copy).

Thus, the impacts of eviscerating environmental laws extends beyond the management of our public lands. The integrity of a fundamental premise of our system of government is also at stake. That premise is that the government has the same obligation - and the same responsibility - to obey the law as do individuals citizens. Whether the issue involves civil rights, free speech, or the environment, no government agency should be above the law.

Our environmental laws must be applied uniformly to federal agencies nationwide, and these laws, which require informed decision-making and consideration of the broad public welfare, must be enforceable by citizens in the federal courts.

The rapidly disappearing ancient forest ecosystems of the Pacific Northwest represent and irreplaceable national treasure. Similarly, the right of citizens to go to court to ensure that the government is obeying the law is one of the cornerstone on which our system of government was built fundamental. The integrity of both must be protected in any ancient forest legislation.

Thus, there are three central themes that are essential components of an ancient forest legislative framework. First, it must preserve the government's obligation to protect the public lands for all the species that inhabit them, as well as for other multiple uses. Second, it must preserve the system of review of government actions by an independent judiciary. Finally, it must preserve the integrity of existing environmental laws.

I thank you again for the opportunity to present the Sierra Club Legal Defense Fund's views here this morning. I would be happy to answer any questions.

(Attachments follow:)

TABLE I - SIGNIFICANT SPOTTED OWL-RELATED LITIGATION
(Filed by Environmental Groups)

	FOREST SERVICE	BUREAU OF LAND MANAGEMENT	FISH & WILDLIFE SERVICE
LAWSUITS	<u>Seattle Audubon Society</u> <u>v. Robertson</u> (Judge William Dwyer) (Seattle)	<u>Portland Audubon Society</u> <u>v. Lujan</u> (Judge Helen Frye) (Portland)	<u>Northern Spotted Owl</u> <u>v. Lujan</u> (Judge Thomas Zilly) (Seattle)
STATUTES	NFMA NEPA MBTA	FLPMA OCLA NEPA MBTA	ESA

LAWSUIT	<u>Lane County Audubon Society</u> <u>v. Lujan</u> (Judge ???) (Eugene)
STATUTE	ESA

KEY

Statutes Protecting Species

ESA = Endangered Species Act (applies to all government agencies and to private individuals)

MBTA = Migratory Bird Treaty Act (applies to all government agencies and to private individuals)

Statute Protecting Environmental Decision-Making

NEPA = National Environmental Policy Act (applies to all federal agencies and to non-federal government agencies and private individuals when federal government funding or approval is involved)

Statutes Governing Public Forest Management

NFMA = National Forest Management Act (applies to U.S. Forest Service)

FLPMA = Federal Land Policy and Management Act (applies to U.S. Bureau of Land Management)

OCLA = Oregon & California Lands Act (applies to certain BLM and Forest Service lands)

TABLE II - SIGNIFICANT SPOTTED OWL-RELATED LITIGATION
(Filed by the Timber Industry)

LAWSUIT	<u>Harbor Against Land Takeover v. U.S. Forest Service</u> Civ. No. 89-159T (W.D. Wa., Nov. 9, 1989).
STATUTES	NFMA, NEPA, Multiple Use-Sustained Yield Act

LAWSUIT	<u>Gifford Pinchot Alliance v. Buttrille</u> Civ. No. 90-834-FR (D. Ore., July 23, 1990).
STATUTE	Section 318 of FY 1990 Interior Appropriations Act

LAWSUIT	<u>Gifford Pinchot Alliance v. Buttrille</u> Civ. No. 90-960-PA (D. Ore., Dec. 10, 1990).
STATUTE	Section 318 of FY 1990 Interior Appropriations Act

LAWSUIT	<u>Washington Contract Loggers Ass'n. v. Robertson</u> Civ. No. C89-99(T)WD (W.D. Wa., March 7, 1991).
STATUTES	NEPA, NFMA.

KEY

Statutes Protecting Environmental Decision-Making

NEPA = National Environmental Policy Act (applies to all federal agencies and to non-federal government agencies and private individuals when federal government funding or approval is involved)

Statutes Governing Public Forest Management

NFMA = National Forest Management Act (applies to U.S. Forest Service)

MUSY = Multiple Use-Sustained Yield Act (applies to all federal land management agencies)

§ 318 = Section 318 of the FY 1990 Interior and Related Agencies Appropriations Act (applies to Forest Service and BLM)

Printed on unbleached, 100% recycled paper

Seattle Post-Intelligencer

The voice of the Northwest since 1883

Editorials

Dwyer decision the correct one

US. District Judge William Dwyer has taken the only reasonable course in ruling that the Forest Service must prepare a plan to save the Northern spotted owl before allowing more cutting in the owl's habitat.

In one sense, Dwyer's ruling was a difficult one, since many residents of this state's timber-dependent communities remain ill-prepared to engage in other occupations. The issue of assistance to residents of these communities is one that should command the attention of Congress.

This ruling will, for the time being at least, shut down logging operations on almost 80 percent of 17 forests in Western Washington, western Oregon and Northern California.

The judge ruled that a "substantial risk" exists that the owl would be wiped out if logging continued on those parcels while the agency tried to fashion a habitat preservation plan. Obviously, if the planners discovered that the owl for its survival needed trees that had been felled in the interim, no amount of judicial restraint

would bring back either the bird or the trees.

However, the picture is not quite as bleak as it seems. Some harvesting would continue on federal lands, since 4.8 billion board feet of timber has been sold that has not yet been felled. Dwyer put 66,000 acres off limits until the new rules are in place.

In another sense, the ruling was an easy one. The Forest Service blatantly has flouted the law and ignored the directive of Congress to prepare the plan, as the judge noted. Dwyer pinned the blame for what he called "deliberate, systematic" violations of the law not on Forest Service personnel but on "higher authorities" in the executive branch of government.

If the Forest Service now abides by the law and moves along as smartly as it should have from the outset to prepare a cutting and habitat conservation plan, the pain caused by uncertainty can be somewhat lessened.

Stability is needed in the Northwest timber harvest regime, and the judge rightly has made it crystal clear that it is the Forest Service's responsibility to stop stalling and provide that stability.

5/27/91

The Seattle Times

AN INDEPENDENT NEWSPAPER

Published August 18, 1986

A JUDGE'S WISE WORDS

Politicians and loggers should listen and learn

FEDERAL District Court Judge William Dwyer's honest and eloquent words on the spotted-owl case tell politicians and timber-dependent communities what they don't want to hear, but must face sooner or later:

"To bypass the environmental laws, either briefly or permanently, would not fend off the changes transforming the timber industry. The argument that the mightiest economy on earth cannot afford to preserve old-growth forests a short time, while it reaches an overdue decision on how to manage them, is not convincing. It would be even less so a year or a century from now."

Dwyer's latest ruling prohibits the U.S. Forest Service from making more timber sales in spotted-owl habitats while the agency takes the next 10 months to develop guidelines to protect the owl.

In the interim, logging will be prohibited on 66,000 acres of owl habitat. Further cutting without a conservation plan in place, the ruling says, "would constitute irreparable harm, and would risk pushing the species beyond a threshold from which it could not recover."

The delay could have been avoided completely had the Forest Service adopted a plan last fall, as it was required by law to do. Dwyer angrily attacked the "deliberate and systematic refusal by the Forest Service and the Fish and Wildlife Service to comply with the laws protecting wildlife."

Ironically, Bush administration officials, by trying to thwart environmental laws, have caused greater uncertainty and hardship for declining timber communities.

Attempts by politicians such as Sen. Slade Gorton and State Land Commissioner Brian Boyle (who just announced he is running against Sen. Brock Adams) to make the spotted owl the culprit are likewise dishonest and harmful. Loggers have suffered, and will continue to suffer, but not as the result of environmental laws.

Dwyer's findings on this point are painfully clear:

"Over the past decade, many timber jobs have been lost and mills closed in the Pacific Northwest. The main reasons have been modernization of physical plants, changes in product demand and competition from elsewhere. . . . Job losses in the wood-products industry will continue regardless of whether the northern spotted owl is protected. A credible estimate is that over the next 20 years more than 30,000 jobs will be lost to worker-productivity increases alone."

Yet, the picture is not as bleak as it might seem. The Northwest's economy has successfully absorbed dislocated timber workers. Jobs in wood products declined in Oregon by 17 percent between 1979 and 1986. In the same period, Oregon's total employment increased by 23 percent.

As the timber industry contracts (it employs 2 percent of all workers in Western Washington, 4 percent in Western Oregon, and 6 percent in Northern California), its impact on the regional economy will decrease.

Loggers don't need politicians willing to engage in easy owl-bashing. They need help making a difficult economic transition. So far, they haven't gotten that from anybody.

*Alliance for Justice * American Civil Liberties Union
 American Fisheries Society * American Rivers * Center for Auto Safety
 Center for Law and Social Policy * Center for Science in the Public Interest * Chesapeake Bay Foundation
 Conservation Law Foundation * Consumer Federation of America * Consumers Union * Defenders of Wildlife
 Environmental Action * Environmental Defense Fund * Equal Rights Advocates
 Friends of the Earth * Greenpeace, U.S.A. * Institute for Public Representation * Juvenile Law Center
 League of Women Voters of the United States * Mental Health Law Project
 Mexican American Legal Defense and Education Fund * National Audubon Society
 National Parks and Conservation Association * National Wildlife Federation * National Women's Law Center
 Native American Rights Fund * Natural Resources Defense Council * New York Lawyers for the Public Interest
 Oregon Trial Lawyers Association * People for the American Way
 Public Citizen's Congress Watch * Public Voice * Rainbow Lobby * Sierra Club
 Sierra Club Legal Defense Fund * The Wilderness Society
 Union of Concerned Scientists * Women's Legal Defense Fund*

April 16, 1991

Dear Representative:

In 1991, for the first time in six years, citizens have the ability to go to court to ensure that the Forest Service and Bureau of Land Management are obeying some of our most important federal environmental laws. Between 1984 and 1990, nine separate riders limiting – or eliminating – judicial review of federal activities affecting the nation's public lands were attached to annual spending bills. We have consistently opposed such limits on access to the courts and were heartened when the Congress eliminated them last Fall.

Now, however, it appears that a move is underway to reinstate the restrictions. We believe that this renewed attempt to cut off judicial review of federal agency activities is ill-conceived and inappropriate. We urge you to join us in resisting any such effort.

Not only do these kinds of restrictions effectively suspend many of our environmental laws, but they can be used as precedent for overriding other important laws protecting our civil and constitutional rights. For example, they are disturbingly similar to efforts a decade ago to strip federal courts of jurisdiction to hear busing, school prayer, and abortion cases. In both situations, the proponents tried to remedy a failure to comply with federal laws by limiting jurisdiction of the courts. These attempts to undermine established legal processes and procedures must be stopped.

Whether the issue involves civil rights, free speech, or the environment, government agencies have the same obligation – and the same responsibility – to obey the law as do individual citizens. No government agency should be put above the law. Any proposal to do so is inimical to the democratic principles on which our system of government is based.

On behalf of our organizations and the millions of members they represent, we urge you to oppose any attempt – either in an authorizing bill or an appropriations rider – to limit citizens' access to the courts.

Sincerely,

Nan Aron
ALLIANCE FOR JUSTICE

Paul Brouha
AMERICAN FISHERIES SOCIETY

Clarence Ditlow
CENTER FOR AUTO SAFETY

Antonio J. Califa
AMERICAN CIVIL LIBERTIES UNION

John D. Echeverria
AMERICAN RIVERS

Alan Houseman
CENTER FOR LAW AND SOCIAL POLICY

Printed on 100% unbleached recycled paper

Bruce Silverglade
CENTER FOR SCIENCE IN
THE PUBLIC INTEREST

Douglas I. Foy
CONSERVATION LAW FOUNDATION

Mark Silbergeld
CONSUMERS UNION

Ruth Caplan
ENVIRONMENTAL ACTION

Nancy Davis
EQUAL RIGHTS ADVOCATES

Cynthia Moore
GREENPEACE, USA

Bob Schwartz
JUVENILE LAW CENTER

Len Rubenstein
MENTAL HEALTH LAW PROJECT
AND EDUCATION FUND

Brooks Yeager
NATIONAL AUDUBON SOCIETY

Fran Hunt
NATIONAL WILDLIFE FEDERATION

Henry Sockbeson
NATIVE AMERICAN RIGHTS FUND

Joan Vermeulen
NEW YORK LAWYERS FOR THE
PUBLIC INTEREST

Melanne Verveer
PEOPLE FOR THE AMERICAN WAY

Ellen Haas
PUBLIC VOICE

Jim Blomquist
SIERRA CLUB

Rindy O'Brien
THE WILDERNESS SOCIETY

Judy Lichtman
WOMEN'S LEGAL DEFENSE FUND

Ann Powers
CHESAPEAKE BAY FOUNDATION

Gene Kimmelman
CONSUMER FEDERATION OF AMERICA

John Fitzgerald
DEFENDERS OF WILDLIFE

Michael Bean
ENVIRONMENTAL DEFENSE FUND

Chuck Fox
FRIENDS OF THE EARTH

Douglas L. Parker
INSTITUTE FOR PUBLIC REPRESENTATION

Virginia DeSimone
LEAGUE OF WOMEN VOTERS
OF THE UNITED STATES

Mario Moreno
MEXICAN AMERICAN LEGAL DEFENSE

Paul C. Pritchard
NATIONAL PARKS AND CONSERVATION
ASSOCIATION

Ellen Vargyas
NATIONAL WOMEN'S LAW CENTER

Nathaniel Lawrence
NATURAL RESOURCES DEFENSE COUNCIL

Jeffrey Foote
OREGON TRIAL LAWYERS ASSOCIATION

Sherry Ettleson
PUBLIC CITIZEN'S CONGRESS WATCH

Nancy Ross
RAINBOW LOBBY

Kevin Kirchner
SIERRA CLUB LEGAL DEFENSE FUND

Alden Meyer
UNION OF CONCERNED SCIENTISTS

Printed on 100% unbleached recycled paper

(The Memorandum Decision and Injunction No. C89-160WD
 is held in the committee files.)

**HOUSE OF REPRESENTATIVES
COMMITTEE ON AGRICULTURE
SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENERGY
May 29, 1991**

TESTIMONY OF MARK C. RUTSICK

I am a partner in the law firm of Preston, Thorgrimson, Shidler, Gates & Ellis in Portland, Oregon. I am appearing today on behalf of the Northwest Forest Resource Council (NFRFC).

The NFRFC is a coalition of 13 timber industry associations in Oregon and Washington which collectively represent every part of the timber industry in the two states from small sawmills and independent loggers to large publicly-held corporations and major industrial timberland owners. The NFRFC was formed in 1986 to serve as a single unified voice representing the industry in major regional issues relating to federal timber supply.

The NFRFC has represented the timber industry in the spotted owl/old growth controversy since 1986 when the Forest Service released its draft spotted owl plan and draft supplemental environmental impact statement. The NFRFC has participated in each of the major spotted owl lawsuits currently

pending in the federal courts in Oregon and Washington. I have acted as the NFRC's lead counsel in each of these cases.

1. Portland Audubon Society v. Lujan

The NFRC's role as a litigant in the spotted owl lawsuits began in October 1987 when a number of preservationist groups filed the case in Oregon then known as *Portland Audubon Society v. Hodel*, Civil No. 87-1160-FR (D. Or.) (now known as *Portland Audubon Society v. Lujan*). This is a lawsuit against the Bureau of Land Management (BLM) seeking to block old growth timber sales in areas of spotted owl habitat throughout the BLM's timberlands in Western Oregon known as the O&C lands (lands which reverted to the government early this century from the Oregon & California railroad). The O&C lands consist of approximately 2.4 million acres of timberland in a checker-board ownership pattern spread throughout western Oregon from the Columbia River to the California border.

The NFRC and a number of BLM timber purchasers intervened in the *Portland Audubon Society* case on the side of the BLM immediately after it was filed. The NFRC has actively participated in this case since then.

Portland Audubon Society involves claims that by selling timber sales in areas of spotted owl habitat the BLM has violated four statutes: the National Environmental Policy Act (NEPA), the Migratory Bird Treaty Act (MBTA), the Oregon &

California Lands Act (O&C Act) and the Federal Land Policy and Management Act (FLPMA).

In April 1988 the U.S. District Court in Portland (Judge Helen Frye) dismissed all four legal claims based on what was then called Section 314 of the Department of Interior and Related Agencies Appropriations Act, Fiscal Year 1988, which barred all claims against the BLM in western Oregon based on allegations of "new information." The Court found that all four claims were based on new information, and dismissed the entire case.

At the request of the Portland Audubon Society, in May 1988 the Ninth Circuit Court of Appeals issued an emergency injunction pending appeal against all timber sales in areas of old growth. This was the first spotted owl injunction.

In January 1989 the Ninth Circuit ordered Judge Frye to hold a trial before applying Section 314, and lifted its injunction. In March 1989 Judge Frye issued a preliminary injunction against certain old growth sales. In April 1989 she lifted the injunction when she again dismissed the case based on Section 314 and the doctrine of laches. In June 1989 the Ninth Circuit, however, reinstated the injunction pending the second appeal.

In September 1989 the Ninth Circuit vacated its injunction, affirmed Judge Frye's dismissal of the NEPA claim based

on Section 314, and sent the other three claims back for a trial.

In October 1989 Congress enacted Section 318 of the Department of Interior and Related Agencies Appropriations Act, Fiscal Year 1990, Pub. L. 101-121, 103 Stat. 701, 745 which was intended to impose a one year cease fire in the spotted owl lawsuits, including *Portland Audubon Society*. Based on Section 318, Judge Frye dismissed the remaining claims in *Portland Audubon Society* as moot in November 1989, rejecting a constitutional challenge to a portion of the statute.

In September 1990 the Ninth Circuit upheld the constitutional challenge to one portion of Section 318, finding it to be a violation of the separation of powers doctrine, and sent the *Portland Audubon Society* case back to Judge Frye again. Section 318 expired on September 30, 1990.

In May 1991 Judge Frye dismissed three of the four claims in *Portland Audubon Society*. She dismissed the NEPA claim on procedural grounds (after the earlier dismissal of that claim based on Section 314 no amended pleading had ever been filed bringing the claim back into the case); she dismissed the MBTA claim on the merits, finding that the MBTA does not apply to habitat loss; and she dismissed the O&C Act claim in reliance on the Ninth Circuit's recent interpretation of that law in *Headwaters, Inc. v. Bureau of Land Management*, 914 F.2d 1174

Page 4

27818-06.001\18090232.074

(9th Cir. 1990), petition for rehearing pending. She did not rule on the FLPMA claim. Had Judge Frye ruled for the Portland Audubon Society, the BLM would have been able to sell only 50 million board feet of timber in FY 1991 out of 750 million board feet of sale authorized by Congress.

On May 21, 1991 the Portland Audubon Society filed a motion with Judge Frye to bring the NEPA claim back into the case. That motion is currently pending. It is unknown whether the Portland Audubon Society will appeal to the Ninth Circuit on the dismissal of the MBTA and O&C Act claims, or if they will ask for another emergency injunction pending appeal. History suggests, however, that such a request can be expected in the near future.

2. Seattle Audubon Society v. Evans

The NFRC has also participated in the spotted owl litigation against the Forest Service in Seattle now known as *Seattle Audubon Society v. Evans*, Civil No. C89-160-WD (W.D. Wash.) (formerly known as *Seattle Audubon Society v. Robertson*). Its participation in this case had been through the Washington Contract Loggers Association, a member of NFRC, but more recently NFRC has itself intervened as a party on the side of the Forest Service in this case.

In February 1989 the Seattle Audubon Society sued the Forest Service on the ground that the spotted owl management plan adopted by the Chief of the Forest Service in December

1988 violated NEPA, the MBTA and Forest Service regulations issued under the National Forest Management Act (NFMA). The Washington Contract Loggers Association sued the Forest Service on the ground the same plan protected more habitat for the owl than necessary. Both cases were consolidated before Judge William L. Dwyer in Seattle.

In March 1989 Judge Dwyer issued a preliminary injunction against some 150 Forest Service timber sales in Oregon and Washington, and subsequently against any timber sale involving more than 40 acres of spotted owl habitat. This injunction, together with delays caused by the proposal to list the spotted owl as a threatened species under the Endangered Species Act, effectively blocked the Forest Service from offering more than half of the timber sales authorized by Congress in 1989. Ultimately, the agency sold just 2.1 billion board feet of timber sales in fiscal year 1989 out of 4.5 billion board feet authorized by Congress.

Congress responded to this injunction, and to the Portland Audubon Society injunctions described previously, by enacting Section 318 of the Department of Interior and Related Agencies Appropriations Act, Fiscal Year 1990. This law ordered the Forest Service to offer 7.7 billion board feet of timber for sale in Oregon and Washington for the two year period of fiscal years 1989-90, and ordered the BLM to offer 1.9 billion board feet of timber for sale in western Oregon

in the same time period. It directed the Forest Service to prepare timber sales in a manner which would minimize fragmentation of ecologically significant old growth forests. It ordered the Forest Service and the BLM to protect spotted owls in accordance with a statutory spotted owl plan established in the statute. It ordered the Forest Service to seek the lifting of Judge Dwyer's injunction, and directed that compliance with the statutory spotted owl plan would satisfy the environmental laws invoked in *Seattle Audubon Society* and *Portland Audubon Society*.

In November 1990 Judge Dwyer upheld Section 318 and lifted his injunction. He declined to allow litigation to proceed on the merits during fiscal year 1990.

In the course of the year, however, Judge Dwyer did enjoin three Forest Service timber sales on the ground that they violated the minimum fragmentation provisions of Section 318.

In September 1990, after the Ninth Circuit struck down a portion of Section 318 as unconstitutional under the separation of powers doctrine, the *Seattle Audubon Society* challenged 12 Section 318 sales on the ground they violated NEPA, MBTA and the NFMA regulations. In December 1990 Judge Dwyer issued an injunction against the 12 sales, which contain over 84 million board feet of timber valued over \$40 million.

Also in September 1990 the Seattle Audubon Society challenged six additional Section 318 sales but filed the challenges after the time limit fixed in Section 318. Judge Dwyer dismissed these challenges as untimely and the Forest Service awarded four of the sales to timber Purchasers. On appeal, however, the Ninth Circuit ruled that the challenges were timely under the "equitable tolling" doctrine. The Seattle Audubon Society renewed its challenge to the six sales, and on May 24, 1991 Judge Dwyer issued an injunction against four of the sales (containing 13 million board feet of timber), but declined to enjoin two other sales that were already in the process of being logged by the purchasers.

Thus, a total of 16 Section 318 timber sales were enjoined by Judge Dwyer in reliance on the Ninth Circuit constitutionality ruling of September 1990. In April 1991 the Solicitor General filed a petition for certiorari with the Supreme Court seeking review of that Ninth Circuit decision. The NFRC filed a brief supporting that petition.

Section 318 had directed the Forest Service to review the recommendations of the Interagency Scientific Committee on the Spotted Owl (the ISC), and to amend the record of decision on the existing spotted owl management plan by September 30, 1990. The ISC released its report in April 1990 and its recommendations proved to be far more sweeping than had been anticipated. On September 28, 1990 the Forest Service

page 8

21818-08.001\18000228.074

announced that it was vacating its existing plan and would act "not inconsistently" with the ISC while a new plan was developed by the Forest Service, the Fish and Wildlife Service or Congress.

This decision was challenged by the Seattle Audubon Society, and in March 1991 Judge Dwyer ruled that the Forest Service announcement violated procedural requirements of the NFMA regulations. He ruled in favor of the Society's claim under the MBTA, however, on the ground that habitat loss is not governed by that statute.

The Seattle Audubon Society asked Judge Dwyer to issue an injunction against all Forest Service timber sales in spotted owl habitat on 17 national forests in Washington, Oregon and California until the agency adopts a new spotted owl plan in compliance with all mandated procedures. The Forest Service asked the Judge to allow the agency to follow the ISC's conservation strategy while it complies with required procedures. The NFRC responded to the Audubon Society request by intervening as a defendant and asking the Judge to hold an evidentiary hearing to balance the equities before ruling on the two requests.

Judge Dwyer granted the NFRC's request (made along with the Washington Contract Loggers Association) and held a hearing from April 30, 1991 to May 9, 1991. At the hearing every spotted owl expert who testified expressed the opinion

that the ISC conservation strategy has a very high probability of preserving a viable population of spotted owls, and is functioning effectively today. However, on May 23, 1991 Judge Dwyer issued an injunction against all Forest Service timber sales in spotted owl habitat on the 17 national forests until the Forest Service formally adopts a new spotted owl plan. He ordered the Forest Service to complete its new spotted owl plan by March 5, 1992. (He issued this ruling despite the Forest Service's undisputed testimony that it could not complete its new plan before September 1992 at the earliest.)

The Forest Service predicted during the hearing that this injunction will prevent it from offering more than 400 million board of timber sales in Fiscal Year 1991 or 1992 on the 17 forests, compared to an authorized sale level for FY 1991 of 2.5 billion board feet and authorized sales in recent years (FY 1986-88) of four billion board feet.

Forest Service and industry estimates at the hearing were that this injunction will cause the loss of 3,200-7,400 timber industry jobs by 1992, and total job losses (including indirect and induced job losses) will be as high as 16,000. Dozens of sawmills and plywood plants will run out of timber and be forced to close before the Forest Service resumes timber sales. Many small timber-dependent communities which are already hard-hit by timber supply reductions will suffer devastating impacts from this injunction. The thousands of

Page 10

21810-06.001\11090232.074

workers in these small towns who lose their jobs will face the prospect of selling their homes at a loss and moving to bigger cities to try to find work, or remaining in their community and accepting a permanent reduction in their standard of living.

3. Northern Spotted Owl v. Hodel

This case was filed in February 1988 challenging the decision by the U.S. Fish and Wildlife Service not to list the northern spotted owl as threatened or endangered under the Endangered Species Act. The NFRC's attempt to intervene in this case was denied by the U.S. District Court in Seattle (Judge Zilly), but he did allow the NFRC to participate as *amicus curiae*. In November 1988 Judge Zilly ordered the Fish and Wildlife Service to reconsider its listing decision. In April 1989 the Service proposed to list the owl as threatened, and in June 1990 it did so.

In August 1990 the plaintiffs in this case asked Judge Zilly to order the Fish and Wildlife Service to designate critical habitat for the owl. In February 1991 the Judge ruled that the Service should have designated critical habitat for the owl in 1990, and gave it until May 1, 1991 to issue a proposed critical habitat designation. The Service proposed such a designation on April 29, 1991 encompassing some 11.6 million acres of land in Washington, Oregon and California. A final decision is expected by November 1991.

Other Lawsuits

Two other lawsuits in Oregon threaten timber sales which have been or will be offered by the BLM. In *Forest Conservation Council v. Jamison* (D. Or.), the plaintiffs are challenging the failure of the BLM to consult with the U.S. Fish and Wildlife Service on 294 timber sales sold under Section 318 in 1990. The BLM concluded that no consultation was required on these sales since they had no effect on spotted owls. Were the plaintiffs to succeed in this case, many of these timber sales could be enjoined or blocked from operation.

In *Lane County Audubon Society v. Jamison* (D. Or.), the plaintiffs have challenged the failure of the BLM to consult with the Fish and Wildlife Service regarding the agency plan for FY 1991-92 known as the "Jamison Strategy." This plan commits the BLM to following most of the ISC conservation strategy and also preserving other spotted owl habitat areas identified by the Oregon Department of Fish and Wildlife. The BLM is consulting with the Fish and Wildlife Service on all of its planned timber sales which may affect spotted owls. Plaintiffs seek an injunction against all planned timber sales in spotted owl habitat until the required consultation is completed.

Conclusion

The spotted owl litigation in the Northwest has reached a crisis point. Despite the Congressionally-endorsed effort

by the Forest Service and other agencies to develop the ISC conservation strategy, and despite the virtually universal acceptance of that strategy as one that will adequately protect spotted owls in the short term and the long term, the courts have now blocked the Forest Service from implementing the strategy, and have indefinitely blocked most Forest Service timber sales in the 17 spotted owl forests while yet another plan is developed. Threats to the BLM sale program are present on several fronts, and the BLM's ability to fulfill its statutory mandate to sell timber under the O&C Act is in serious doubt.

There is no end in sight for this litigation. It is a virtual certainty that the preservationists will challenge whatever new plan the Forest Service develops at Judge Dwyer's direction, it is likely to new injunctions will be issued in the future to block implementation of the new plan while it is tested in court.

Indeed, the seeds for this challenge were planted in the recent hearing before Judge Dwyer. The preservationist biologists (all of whom admit they are not spotted owl experts) identified research they felt was essential to be completed before a new spotted owl plan is developed, yet none of that research can be completed within the timeframe set by Judge Dwyer. In another year or two, when the Forest Service returns to Judge Dwyer with another newly-completed spotted

owl plan, the same witnesses will challenge that plan on the same grounds, and another injunction is quite possible.

The spotted owl remains an acknowledged surrogate for preservation of old growth forests. Until the old growth issue is resolved definitively -- or until the Forest Service and the BLM abandon all timber sales and other commodity production from public lands in the Northwest -- the spotted owl litigation will continue. There can be no certainty in federal timber supply as long as the courts retain the power to shut down an agency sale program with a single sweeping injunction. The timber industry cannot long survive in an environment where mill owners facing multi-million dollar investment decisions can not have confidence that a supply of raw materials will be available in the future.

Congressional intervention is the only solution to this intractable problem. Congress must legislate a balance between protection for spotted owls and old growth forest and the needs of timber workers, mill owners and the American people for a secure supply of federal timber from the Pacific Northwest.

Statement before
Subcommittee on Forests, Family Farms, and Energy
Committee on Agriculture

by

Dr. K. Norman Johnson
Associate Professor of Forest Management
College of Forestry, Oregon State University
Corvallis, OR 97331

May 29, 1991

Timber Harvest Levels, Old Growth, and the Northern Spotted Owl

1. The allowable sale quantities estimated in the new national forest plans are unrealistic. In the recently published national forest plans for Region 6, the Forest Service estimates that it can harvest an allowable sale quantity (ASQ) of 3.4 billion board feet/year. Overlaying the "Thomas" Report on these plans lowers that estimate to approximately 2.6 billion board feet/year. It is doubtful that those levels of harvest can be sustained while meeting other forest plan objectives such as protecting riparian areas, producing big game, and providing scenic values and dispersed recreation opportunities.

The Forest Service developed its national forest plans under a process in which the ASQ represented an "upper limit" on harvest which would then be refined during plan implementation. Meeting the allowable sale quantity will require harvest in many controversial areas, such as roadless areas and along highways. In addition, it involves a very high level of management intensification and extensive use of clear-cutting.

The Forest Service has made it clear that the "Standards and Guidelines" for protection and production of resources other than timber take precedence over achievement of the ASQ. Therefore, the sustainable level of timber harvest in Region 6 is probably lower than stated---with or without the Thomas Report.

2. Departures will be difficult to implement. In the short-run (next few years), it will be difficult to harvest above the sustainable level without violating these Standards and Guidelines. In the Douglas-fir Region, the Forest Service has set harvest levels over the last 20 years assuming a larger land base for timber production than available to it. Since approximately 1970, the Forest Service has stayed out of most roadless areas in the Region while still calculating the ASQ as if they were available. Thus, the Forest Service have concentrated the entire harvest on the accessible portion. Many of these roadless areas have since been allocated to Wilderness or reserved from harvest in the forest plans. Others will be controversial to harvest. The Forest Service may be constrained to return to the same areas where they have previously concentrated the harvest which will limit their ability to accelerate harvest through departures.

3. Clear-cutting will still predominate. Even with the Thomas Report and its management prescriptions for the forest outside of the Habitat Conservation Areas, such as the 50-11-40 rule, clearcutting will remain the predominant harvest method in the Douglas-fir Region. Changing these practices to encourage the retention of mature and old growth forest structure during harvest may be desirable (ie, new forestry), but it will result in a further reduction in harvest levels---perhaps a one-third reduction from the yields assumed in the national forest plans.

4. The remaining timber base is a mixture of old growth, other natural stands, and managed stands. After the forest plans and the Thomas Report, natural stands constitute approximately two-thirds of the acres remaining in the timber base with the others being managed stands. Many of these natural stands qualify as "old growth", under some definition, with the rest being mature and immature stands that lack some old growth qualities. Directing the harvest toward natural stands that lack old growth characteristics might be possible on some national forests for a few years. Most managed stands on the national forests, on the other hand, are less than thirty years old and will need another 20-30 years to mature before they will provide much timber volume.

5. Old growth withdrawals can significantly affect the ASQ. If your deliberations result in temporarily withdrawing additional old growth stands from timber harvest to enable their further study, you will be faced with the dilemma of whether or not to adjust the harvest to the sustainable level without these stands. Since Forest Service harvests for the next few decades depend heavily on old growth timber, removing these stands from the timber base will result in significant decline in harvest on most national forests in the Douglas-fir Region. Yet not removing them from the timber base as they are studied will result in the Forest Service once again harvesting against a land base that is only partially available.

6. It will difficult to raise the harvest by shifting HCAs. I believe that it will be difficult to increase timber harvest levels through movement of the Habitat Conservation Areas (HCAs) while keeping to the design principles of the Thomas Report, as Thomas's Committee tried to minimize the timber harvest impact of their effort through placement of HCAs on already reserved lands. To increase the harvest, either the design principles (such as HCA size or distance between HCAs) must be eased or the area over which the strategy will be applied must be reduced.

It may be possible, however, to increase the certainty of timber harvest, while still adhering to the design principles of the Report, by shifting the HCAs to cover roadless areas and other controversial lands in the timber base, such as Opal Creek on the Willamette NF, Canton Creek and Calf-Copeland on the Umpqua NF, and the North Kalmiopsis on the Siskiyou NF. In addition, placement of the reserves might consider other sensitive species (such as the marbled murrelet), watersheds critical for the anadromous fishery, and other concerns.

**STATEMENT OF
CHRISTINE SPROUL, ASSISTANT SECRETARY, RESOURCES AGENCY
STATE OF CALIFORNIA
AND
CALIFORNIA REPRESENTATIVE
NORTHERN SPOTTED OWL RECOVERY TEAM**

**Before the
Subcommittee on Forests, Family Farms, and Energy
Committee on Agriculture
United States House of Representatives**

Concerning Old Growth National Forests

(H.R. 842, H.R. 1309, and H.R. 1590)

May 29, 1991

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

**Thank you for the opportunity to offer the views of the State of California
on proposals for ancient forest protection on federal forest lands.**

**California, like the other Pacific Coast states, is affected by the controversy
over the need to balance protection of ancient forests and the Northern
Spotted Owl with economic and community concerns. The importance of
these issues in California may be sometimes overlooked as the political
focus of the owl is generally on Washington and Oregon. Our neighboring**

states may be more economically dependent on the wood products sector and have a larger area of ancient forests. However, old growth forests, endangered species in forest lands, and rural economic issues are also major concerns in California. Roughly the same amounts of acreage in California and Washington state, over 3 million acres, are now identified as proposed critical habitat for the Northern Spotted Owl. This helps to illustrate that any legislation relating to the management of old growth values in national forests in the Pacific Northwest and northern California will have major ramifications for California.

As a state, California has moved aggressively to address issues of forest management and protection. We have a strong system for regulating timber harvesting on state and private lands. In cooperation with federal land managers, we are pursuing bioregional approaches to conserving forest ecosystems and endangered wildlife. Also, the state is actively participating in the U.S. Department of Interior's Spotted Owl Recovery Team effort to develop a creative, interdisciplinary owl protection plan. We hope you will consider these efforts and will draft legislation that supports and complements them.

Let me start by making reference to how spotted owls, both the Northern and California subspecies, are affecting federal agencies, state government, and private landowners in our state.

First, since the listing process for the Northern Spotted Owl began, timber sales offered by the Forest Service in the Klamath Province of Northern California have fallen from a target of almost 700 million board feet in 1989, to an anticipated sale in 1991 of less than 100 million board feet, including salvage. This has caused cases of extreme hardship throughout many of the rural communities in the northern half of our state. Additionally, on private lands in the Klamath Province, the State has prohibited timber harvesting that would result in a "take" of the Northern Spotted Owl. Most harvesting operations on private lands are reviewed by wildlife biologists, and are preceded by surveys to determine the presence of owls, resulting in costs to both the State and landowners. This burden will not be eased until a Habitat Conservation Plan for the Northern Spotted Owl, which is being prepared by the State at significant cost, is finished.

Second, the recently announced proposal by the Fish and Wildlife Service to designate critical habitat for the Northern Spotted Owl involves over 3.2 million acres of federal and private land in California -- an amount nearly

equivalent to the size of the area proposed for the State of Washington. Private lands comprise almost 1.4 million acres of the proposed area of critical habitat designation in California. Clearly, we are heavily impacted by the various federal decisions related to the conservation of the owl, especially because the Northern Spotted Owl population does well outside of old growth forests in California and because much of its habitat in California is found on privately owned lands.

Third, in California, we are beginning to see the effects of the growing concern for a close relative of the Northern Owl -- the California Spotted Owl. The range of this owl runs from the Pitt River in the north of the state, down through the Sierra Nevada, and almost to the border of Mexico. Although it is not currently under review as a candidate endangered species, the U.S. Forest Service and the California Department of Fish and Game already are changing management activities to provide for the protection of this owl. Several timber sales are in litigation and will not be able to proceed without further evaluation and conservation measures for the California owl. Timber supply is being held up in the Sierras and still more timber sales will likely be withheld in order to evaluate and to protect this bird.

In summary, owl conservation and old growth protection concerns in California are now focused throughout the State, over an area roughly equivalent to half of the State -- about 50 million acres.

In response to these and other environmental issues, Governor Wilson recently has unveiled a major program -- "Resourceful California" -- to protect and assure the wise use of California's natural and cultural heritage. The Governor's program focuses on stewardship, partnership, and preventative management to preserve our natural resources for the future and to maintain a productive economy. At the center of "Resourceful California" is the proposed Heritage Lands Act, a \$682 million bond measure for the purchase and protection of ancient forests, riparian habitats, and other critical wildlife habitats now in private ownership. A related piece of the program supports measures being pursued by the California Legislature to reform forest practices on private land to assure greater protection for wildlife, longer harvest rotation periods, and more certainty for landowners and labor. Finally, the Governor's program encourages an innovative process now underway among federal and state agencies, environmental groups, and the forest products industry to adopt an ecosystem and landscape approach to forestland conservation and planning. California's efforts are largely focused on private land; however, our initiatives can be

complementary to the actions you are considering. We would hope that the solutions you develop will be crafted in consideration of the framework of our "Resourceful California" program.

For example, by state legislation enacted in 1989, California has established a Timberland Task Force to deal with questions of wildlife habitat on forestlands in California. Secretary for Resources Douglas P. Wheeler chairs the Task Force, which includes the Regional Forester of the U. S. Forest Service, the State Director of the Bureau of Land Management, their counterparts in the National Park Service and U.S. Fish and Wildlife Service, and the directors of similar state agencies. The Task Force has adopted a bioregional approach to wildlife habitat protection on forestlands and is pursuing an integrated management approach which brings together federal, state, and private land managers. Three bioregions have been defined and pilot projects are underway in two of these - the Klamath and the Sierra bioregions. These projects blend with efforts to develop a Habitat Conservation Plan for the Northern Spotted Owl in the Klamath Province, and a joint State - U.S. Forest Service effort to assess the status of the California Owl in the Sierra.

For the State and the federal land management agencies we believe that the Sierra Nevada Mountains offer a unique opportunity to plan for and to apply bioregional conservation principles across forest landscapes, in which ancient forests must be a key part. An integrated management approach offers the best opportunity to protect multiple sensitive or threatened wildlife species and to demonstrate that multiple uses -- including timber harvesting, wildlife conservation, public recreation, and ancient forest protection, are compatible across a landscape. Our current efforts in the Klamath and the Sierras are aimed at habitat mapping, sensitive species identification, the development of new market-based incentives and increased public involvement for planning watersheds with mixed private and public ownerships. We will need perhaps two to three years to complete these projects. Thus, we would hope that federal legislative solutions provide sufficient latitude for us to complete these projects and make supplemental funding available to augment our resources.

Turning to the specifics of the bills before this Congress, I would like to make a few general comments.

1. **We support the proposal to designate areas of ancient forest for additional protection. This said, we would make the following suggestions:**
 - o **To ensure that the protected areas are based on the best science available and on broad public interest, including the interests of the states, we would like to see the boundaries drawn with input from recognized scientists and in consultation with the respective states.**
 - o **With regard to reserve areas, we believe that some flexibility should exist to add or to delete areas over time, and to adjust reserve area boundaries, as our understanding of old growth ecosystems improves.**
 - o **Finally, we believe that federal land managers need the tools and the flexibility to be able to control fires, insects, and other factors which may threaten the sustainability of a reserve area or privately owned stands surrounded by or adjacent to the reserved area.**

2. **We are dismayed by the sharp, unplanned reduction in timber sales levels on federal lands as a result of actions related to the Northern and California Spotted Owls. What is needed is a stable long-term supply: If sales targets are to be adopted they should be both realistic and achievable. We are concerned that the focus on timber sales targets obscures issues related to demonstrating the compatibility of timber harvesting, wildlife habitat protection, and retaining ancient forest values. Our preference is to support the efforts of the Forest Service and others to expand practices of managing forest landscapes for wildlife protection and for economic values as the best way to stabilize the level of federal timber sales.**

3. **We encourage you to adopt strategies to provide training and adjustment assistance for displaced workers and to address the need to diversify local rural economies. We would ask you to work with efforts already underway at the state level and to remember that old growth and owl conservation issues will affect communities not just in the Klamath but also in the Sierra area of our state.**

4. We suggest that you make adjustments in the way revenues from federal timber sales are shared with counties. In the short term, consideration of raising the Forest Service formula share from 25 percent to 50 percent, which is the share currently received by the Oregon and California railroad lands (located in Oregon) would be appropriate. For the long term, we encourage the development of a share structure based not just on commodity sales but also on noncommodity outputs and property values. Such a system would likely be both more stable and more equitable than the current program.

5. Perhaps most importantly, we would like to point out the need to make the implementation of federal statutes related to forestland management and wildlife protection more consistent. The lack of coordination between conservation efforts, (e.g. the recovery team planning and the critical habitat designation for the northern owl) and with forest planning, has resulted in tremendous confusion and uncertainty. Absent coordination we will not be assured of the best strategies to balance management for environmental, economic, and social values on federal lands.

In closing, I want to emphasize that the State of California and the Wilson Administration are committed to the complementary goals of sustainable forestry, environmental protection, and rural economic development. In California, we are making progress in developing programs to address these goals. As you progress toward a legislative solution to the problems of old growth ecosystems and spotted owl protection, let us try to assure that our efforts are complementary.

Thank you.



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

OLYMPIA
90504-0413

JOHN GARDNER
GOVERNOR

STATEMENT OF
RICHARD WAFSINGER
REPRESENTING GOVERNOR JOHN GARDNER
OF WASHINGTON STATE

Before the Subcommittee on Forest, Family Farms and Energy
Committee on Agriculture
U.S. House of Representatives

Concerning Old Growth National Forests
(H.R. 842, H.R. 1309, H.R. 1590 and H.R. 2185)

May 29, 1991

Mr. Chairman, on behalf of Governor Gardner, I want thank you for holding this hearing. The Governor also asked me to thank Congressman Morrison for the bipartisan and balanced approach he has brought to this issue and for all of the time and effort he has put into trying to find a solution. Congressman Morrison has the confidence of the Governor, and the Governor is comforted knowing that the Congressman is at the table during the difficult negotiations which are now taking place.

In this testimony I intend to comment on the management of this issue, to make an attempt to define balance, to lay out some general principles which any solution should include and then to comment on the specific legislation which we have before us.

I. MANAGEMENT OF THE ISSUE

During the past few months the Northwest has faced a volley of court injunctions, uncoordinated owl management proposals and disconnected federal responses.

Last Friday, a federal district court judge shut down virtually all timber sales on national forests in the Pacific Northwest because the U.S. Forest Service had not implemented a plan for the protection of the northern spotted owl. That same day, the U.S. Fish and Wildlife Service held a hearing on a proposal for designation of critical habitat which could extend the range of owl protection beyond that recommended previously by scientists.

These two latest actions are nothing new. To quote Judge Dwyer in his May 23 ruling, "The records of this case show a remarkable series of violations of the environmental laws. The Forest Service defended its December 1988 ROD persistently for nearly two years. Congress was persuaded in 1989 to adopt most of the ROD standards as a temporary measure in section 318. But in the fall of 1990 the Forest Service admitted that the ROD was inadequate after all -- that it would fail to preserve the northern spotted owl. In seeking a stay of proceedings in this court in 1989 the Forest Service announced its intent to adopt temporary guidelines within thirty days. It did not do that within thirty days, or ever. When directed by Congress to have a revised ROD in place by September 30, 1990, the Forest Service did not even attempt to comply. The Fish and Wildlife Service, in the meantime, acted contrary to law in refusing to list the spotted owl as endangered or threatened. After it finally listed the species as "threatened" following Judge Zilly's order, the Fish and Wildlife Service again violated the Endangered Species Act by failing to designate critical habitat as required."

Complex and controversial public policy decisions require a fair, open and understandable process for resolving conflicts if there is to be any hope of resolution. In the absence of such a process, compromise is even more difficult to reach and the public loses

faith in our governmental institutions.

In the case of the northern spotted owl issue, the result has been chaos and confusion. State and community leaders have been whipsawed by a never-ending stream of uncoordinated policy actions by federal agencies. Actions which have been extremely time consuming and have distracted state and local governments, businesses and families from managing their daily business.

Most of the people in the Pacific Northwest, regardless of which side they are on, are outraged at the failure of governmental institutions to institute a clear, orderly and open process to resolve this conflict.

While many of the individual agencies are attempting to act responsibly, there is no leadership from the top. The consequence is that the different owl protection mechanisms in each of the agencies are often going in different directions and it appears that no one cares if agency activities are coordinated or effective.

Furthermore, it appears that what direction the administration has given the agencies has resulted in them acting inconsistently with the law thus pushing the decisions to the courts. The result is that the administration does not appear to have the credibility with either the courts or the environmentalists to broker the kind of balance which is so sorely needed.

These serious management problem have exacerbated this conflict and delayed its resolution. We believe that two things need to happen to resolve this conflict:

A. Congress needs to pass a balanced long-term solution. Judge Dwyer's injunction shutting down Northwest timber sales poses a severe threat to our regional economy and could add as many as 9,000 more job losses in Washington State alone, to the mounting total.¹

B. The Bush Administration needs to do a better job of coordinating its activities. The pain and confusion our communities have faced has gone far beyond what is necessary had this issue been better managed.

¹ Claims that the volume of timber under contract can keep the industry afloat do not appear to us as valid. Many timber dependent regions of our state have very little timber under contract. Moreover, markets are already factoring the injunction induced shortages into stumpage price increases at a time when lumber prices are weak. Without action, the consequence is likely to a rash of plant closures and layoffs.

II. THE NEED FOR A BALANCED SOLUTION: WHAT IS BALANCE?

The term "balance" has been used by both sides in this issue. Since it means different things to different people, I would like to briefly describe what the Governor means by balance.

Balance means understanding the basic values which underlie both sides of this debate. It means understanding that ancient forests and endangered ecological systems have incalculable value to the human species, and that their loss is irreversible.

But it also means understanding that our rural, timber dependent communities have been home to timber families for generations, and that we face nothing less than the destruction of the human ecology of those communities.

It means understanding that lives and families can be destroyed by the stroke of a pen, that children can be deprived of health care and decent food, and that proud families can be humiliated by poverty and unemployment.

This is an issue which involves not only how we care for the earth, but how much we care about each other.

Understanding all this makes those decisions even more difficult. But we honestly believe that those who do not understand the values and needs of both our communities and our ancient forests are in no position to make these decisions.

A. Our Region's Old Growth Forests:

The portrayal of old growth forests as magnificent natural wonders may sound like an exaggeration. But since we Washingtonians live among old growth forests, we can tell you that these portraits are true. From the old growth forest survivors of Mount St. Helens' volcanic blast to the moss-draped rain forest on the Olympic Peninsula, our citizens and visitors appreciate these forests' beauty, peace, and sense of timelessness. We do not want to lose this part of our heritage because we did not act in time to save it.

We know that our old growth forests are more than rotting logs and disfigured trees. We know them to be remarkably efficient ecosystems with intricate connections of soil, water, plants, and animals we may never fully understand. There are animals, like the red-tree vole, that live their entire lives among the branches of the huge Douglas firs, never to realize that a world exists below them on the ground. There are fungi which connect trees in elaborate underground webs. Old growth serves as a source of some of the world's cleanest water and helps to

regulate the flow of that water, an essential factor in flood prevention. The salmon of the Pacific Northwest also benefit from these healthy ecosystems.

We also stand committed to protection of the threatened and endangered species, including the northern spotted owl. The owl is our canary in the coal mine; it serves as an indicator of the health of the ecosystem. Governor Gardner has consistently urged that credible science be used in spotted owl protection and that federal laws protecting the owl and its ecosystem be responsibly implemented.

B. Our Region's Timber Communities:

Most of the rural communities in the Pacific Northwest are dependent on the timber industry for their survival. In Washington state 20 out of our 39 counties are primarily timber dependent. In Oregon the degree of timber dependence is even greater.

These communities have seen tough times in the past. Recessions, depressions, and technological changes which have cost jobs. But they have survived and for the most part have remained dynamic. In fact, the number of jobs in the secondary wood processing industry has actually increased in the last decade.

While federal timber provides only 20% of the harvest in Washington state it provides over one-third of logs to our state's mills. The mills and logging operations which support these communities are not the big land-owning, log exporting, overcutting companies that have been publicly portrayed by environmental groups. In fact, in most cases federal law prohibits those big companies from buying logs from either state or federally owned lands.

The firms which purchase public timber are for the most part small and medium-sized companies which are the most stable and committed employers in our region. They are the components of our industry which are often the most competitive, the most efficient, and the most reliable employers in our region. They are most often the firms which have identified the highest-value niche markets overseas.

The community of Darrington, Washington, for instance, is dependent on public timber from the Mount Baker-Snoqualmie National Forest to fuel Summit Timber, which employs nearly 600 people in what is perhaps the state-of-the-art lumber mill in our region. The communities of

Packwood and Morton depend on public timber from the Gifford Pinchot National Forest to fuel Pacific Lumber and Shipping, which employs 500 people in modern, competitive lumber mills whose workers have seen only one week of layoffs during the past 10 years.

If the federal timber supply were to dry up entirely, the consequence would be that the industry would become dominated by a handful of large, land-owning companies. Competition would be reduced and the value of the holdings of the big companies would increase. The industry would become less diverse, less competitive and our communities would suffer.

Most of the communities in the rural Pacific Northwest are dependent entirely or in part on public timber for their economic survival. These communities are most frequently located in remote areas far from the dynamic economies of our region's cities and simply don't have access to the diversification options our urban areas have. Tourism's seasonal and low paying jobs are not a serious replacement for their high-paying, frequently union, jobs in the woods.

III. Components of a solution

The components of a long term solution should provide a balance of protection of old growth ecological systems and a stable, predictable timber supply. But it also essential that any solution include compensation for workers and communities which are negatively affected by these public policy decisions.

If we need to protect more old growth than we should ensure that impacted communities and workers are able to make a smooth transition to new jobs and new economies.

Washington state government has been doing its part in providing resources to communities and individuals impacted by changes in the federal forest policy. During the 1989 legislative session we worked to get ahead of the curve by passing legislation which established the nation's first value-added in wood products program at our Department of Trade. After two years in operation, the program has worked with 120 companies in identifying new products and markets from which to gain more value from fewer logs. We also created a Olympic Natural Resources Center to explore new methods of forest management on the Olympic Peninsula as well a timber communities program to begin working to diversify communities dependent on federal timber.

During the current legislative session, we passed legislation which will direct nearly \$70 million in additional aid to impacted communities and workers. This includes an extension of

employment insurance for workers in training programs; additional grants to community college for displaced forest product workers; loans for community infrastructure, loans to firms which locate in impact areas and many other economic development and human services programs.

Furthermore, the Governor has written the rules governing the log export restrictions which ensure that the logs from state lands go to the mills which are most impacted by the federal supply lines.

The state has done its share to address this federal problem but it is now time for the federal government to act.

The Governor believes that the following elements should be part of the federal government role in such a solution:

- A. A long-term forest management, wildlife protection and timber supply plan which includes the following principles:
 1. It should be scientifically credible and provide adequate protection for the northern spotted owl. To the extent possible, owl protection should be designed to protect a range of forest ecosystems as well as provide for the needs of other potentially threatened species.
 2. It should provide a long-term, predictable, and stable supply of timber for our timber communities. Timber supply targets should be both realistic and achievable and at an adequate level to allow our region to maintain a viable, competitive and diverse industry. An industry from which we can build a growing secondary processing industry which is able to extract more value out of each board foot of timber harvested.
 3. It should include a role for the Secretary of Interior's interdisciplinary spotted owl recovery team. The team includes credible biologists, economists and foresters who are beginning to gel into an effective working group.
 4. Wherever biologically feasible, the plan should rely on adaptive management under which land managers can combine protection of wildlife with management of forests for harvest. We are supportive of efforts of the U.S. Forest Service to expand the practice of managing the forest landscape for wildlife protection and economic values.

We hope that the Forest Service can explore alternative management regimes such as long rotations under which you can grow both old growth wildlife habitat and valuable old growth logs which create jobs in labor intensive industries.

5. It should include compensation for workers and communities hurt by permanent supply declines.

B. Creation of jobs for timber workers improving the value of our national forests.

We are very supportive of Congresswoman Unsoeld's proposed TREE program (Timber Resource Employment Enhancement). We need this new bold and innovative approach to providing jobs and assistance to workers displaced by changing priorities. The creation of 4,000 jobs enhancing the recreational, wildlife and economic value of our National Forests will more than pay for itself in the long-run.

The state has recently implemented a similar program on a smaller scale, known as the employment and career orientation program. This state program will employ 200 dislocated forest products workers on state lands doing thinning, reforestation, stream enhancement and other tasks. In order to be eligible for the forest jobs, workers must participate one day per week in a free career orientation program which can help them eventually transition to family-wage jobs in other industries.

C. Assistance for dislocated timber workers.

Compensation to affected workers should be considered a responsibility of government, not a bargaining chip in the supply debate. Such assistance has not been forthcoming and we believe that this federal responsibility should be taken seriously.

The administration has repeatedly said that the existing Job Training Partnership Act (JTPA) program is sufficient to address those needs. We do not believe that a comprehensive worker training program for forest industry workers can or should be funnelled through this mechanism. JTPA has been slow to respond to discretionary grant proposals. Its emphasis is on short-term training and job placement, not long-term skill upgrading.

We recognize that compensation of workers should follow

the resolution of the old growth/timber supply debate because we simply won't know what the program demand is until we know what the supply is. It is our belief that the following elements would be most helpful:

1. Funding for a comprehensive training program which will allow timber workers to find family-wage jobs in other occupations. We need a long-term training program like the Trade Adjustment Act (TAA).
2. Income support for self-employed workers in the timber industry and those timber workers not eligible for unemployment insurance (UI) benefits because of cutbacks in hours worked. Benefits should be tied to worker participation in job search and retraining programs.
3. Health care coverage and child care services should be available to eligible dislocated workers.
4. Funding for an accessible, statewide telecommunications program to address the retraining needs of dislocated timber workers. A satellite telecommunications program could focus on providing generic clusters of classes in demand occupations and post-secondary general education to workers in rural communities.

We have worked with organized labor in the design of a "timber workers' fairness act" which could provide many of these benefits. Attached is a comparison sheet which describes that program.

- D. Replacement of county national forest revenues: Over 25 Washington counties receive 25% of the revenues from federal forest service timber sales within their counties. These receipts are a substitute for the property taxes which the counties would have received had the forest service land been used for private development.

The 1990 Interior appropriations bill contained language which provided protection for some counties affected by timber supply declines. This language ensured that a county's receipts could not be less than 90% of the average receipts over the 1988-1990 period. However, it also stated that the county allotment could not exceed total revenues from the affected National Forest.

This language does not help those counties most in need since the two hardest hit areas, the Olympic and Mount Baker-Snoqualmie National Forests, will have virtually no timber sales under any of the current plans under discussion. We would like to see the 1992 appropriations bill contain the same formula as the 1991 bill with a change in the base for determining revenues. Each county's revenues should come out of the entire region's revenues rather than each National Forest's.

- E. Community diversification assistance:** We would like to see the creation of a loan fund to provide fixed-asset loans to small forest products firms and other businesses which provide job opportunities in rural Washington state timber counties.

Washington lacks constitutional authority to directly lend state general fund dollars to businesses. Fixed asset loans for modernizing equipment, as well as new plants and equipment, are important to expanding value-added activities in regional with reduced federal timber supplies. Funding could be provided through existing state and federal programs.

Such a program could be modelled after the Economic Development Administration's very successful Coastal Loan program. The program leveraged millions of private dollars into investments in rural, distressed areas of the state hit hard by the 1982 recession.

- F. Coordination in enforcement of log export restrictions:**

We are committed to making the log export restriction work. The federal bill refers to cooperation with federal agencies in implementation of the ban. It is time to begin that cooperative effort.

Currently, there are seven different government authorities enforcing separately administered log export rules: the Forest Service, the Bureau of Land Management, Department of Commerce (Western red cedar ban), Oregon, Washington, Idaho and Montana.

Logs flowing to the same ports from the same firms are tracked by seven different police forces and seven auditing groups. Furthermore, logs from state lands frequently flow to ports in other state where no one has jurisdiction over them. This is simply wasteful and inefficient and results in a management scheme which is arbitrary. The consequence is that honest firms are penalized.

We believe that it is time to designate a single federal agency with responsibility for management and enforcement of all log export restrictions on state and federal lands.

IV. COMMENTS ON LEGISLATION

A. H.R. 842, "Ancient Forest Protection Act of 1991"

We respect Congressman Jontz's appreciation of the value of our ancient forests and his desire to protect them. However, HR 842 does not provide any assurance of a reasonable or stable supply of public logs for our rural communities and therefore does not fit our definition of a "balanced" solution. We understand that Congressman Jontz is willing and interested in working with members of our delegation on a compromise which addresses everyone's needs. His bill makes a valuable contribution to the ultimate compromise.

B. H.R. 1590, "Ancient Forest Act of 1991"

This bill has several provisions which are desirable components of a long term solution. The bill recognizes the desirability of an ecosystem approach to wildlife management. It seeks to provide an assured timber supply for the forest products industry in timber dependent communities. It recognizes the importance of research in identifying old growth reserves and in advancing the level of scientific knowledge on land management and harvesting practices. Finally, it contains an economic relief program for rural communities and displaced timber workers.

While Congressman Vento's bill is a serious effort at a balanced solution, we do not believe it achieves that goal. The timber sale level described in the bill is neither realistic or achievable. Preliminary estimates by the Forest Service indicate that the combination of the acreage set asides for old growth, the use of new forestry and other factors will result in a significantly lower timber sales level than that described in the bill. This level is below what we believe is necessary to maintain viable timber dependent communities.

We also have some concerns about some of the provisions of section 11 of the bill dealing with economic assistance to rural communities.

First of all, the provisions dealing with payments to counties will not help the most hard-hit counties in our state. Sales on two of our state's national forests have

already been reduced to near zero. Fifty-percent of nothing is nothing. We would prefer a formula that bases each county's revenue on a share of the entire region's income rather than each forest's.

Secondly, we hope that you are willing to work with state governments in the design of the community assistance component of the bill. Oregon and Washington already have local community task forces at work helping local communities diversify. The expertise and the experience lies at the local level. What we need is a federal investment in the solution through the provision of additional federal grants and loans to supplement existing local efforts.

Finally, we support the creation of a special job training fund. However, we would like to recommend that you work with organized labor in the specific design of the actual program. Attached is a matrix which describes a program which the state of Washington and organized labor have jointly developed as a model.

C. H.R. 2185, Just Compensation Act of 1991

This act relates to the issue at hand in that it attempts to compensate property owners harmed by the Endangered Species Act of 1973. We believe that compensation of those negatively affected by government decisions is good public policy to the extent it forces the proponents of those decisions to recognize the true costs.

In this case, a public decision has been made to preserve the old growth ecological systems and we believe that the public should be willing to bear the economic costs of that decision. It is unfair to push the entire cost onto the workers, the families, and the communities who depend on the timber industry for their livelihood.

Perhaps the issue would be a little easier for those in the timber communities to bear if those in urban areas understood that there is a cost and somebody has to pay it. Perhaps the outcome would be different as well.

However, this particular bill recognizes only the costs to property owners and none of the costs to workers, families and communities affected by these decisions. For that reason, we are unable to support this bill.

D. The Labor/Management Plan

At the time of writing of this testimony we have yet to see a copy of the actual bill. Therefore, we are unable

to take a position on that piece of legislation.

Our review of early outlines of the bill indicate that it is a serious compromise which includes many of the principles which need to be part of any long-term solution. We will forward our comments on the bill once the Governor has had a chance to review it.

V. CONCLUSION

I would like to conclude with an analogy which explains why the Governor feels it is so important that a balanced solution be reached.

There is a concept in wildlife biology known as population "sinks". Sinks are areas where wildlife still exist but their productivity is far below the level required to replace mortality. In the case of threatened species such as the northern spotted owl, we may still find owls living in many areas across the landscape but the destruction of the owl's habitat is creating a situation in many of these places where owls may live on for years but their populations is declining and over time they will "wink out" or die.

This same concept can be used to explain what happens to rural communities when they are cut off from their economic lifeblood. The people of the community will not automatically pick up and move the day the logging operation or mill shuts down. Rather, people persist in a vastly reduced quality of life for years until the area ultimately turns into a ghost town.

We are all familiar with "distressed" areas such as Appalachia, the steel towns of the mid-east and our nation's inner cities, where poverty and unemployment persist on for decades without change. Despite noble efforts by policy makers, these areas have not been changed by the magic wands of diversification and retraining. Such efforts are difficult, expensive and not always successful. There is no free lunch here.

You shouldn't be too surprised if governors and congressman from the Northwest aren't too eager to make policy decisions which create such areas within their own states.

However, we are optimists. We believe you can reach a balanced solution to this issue which can both protect endangered ecological systems and maintain a stable supply of logs for our communities. We hope you are able to understand the value of both sides in this debate and craft a compromise which protects the essential requirements of both communities and ecological systems.

REVISED COMPARISON OF SERVICES TO TIMBER WORKERS
(Washington State Only)

	KOWIA DISCRETIONARY GRANT	TRADE ADJUSTMENT ACT (TAA)	TIMBER COMMUNITY FARMERS ACT
1) People Eligible Annually	3,000 (FY 1991)	1,100 (FY 1990)	15,000 total 5,000 per year over 3 years
2) Number of People Likely to Participate	1,000	200	4,000 total 1,000 per year over 3 years
3) Estimated Cost Per Person	\$2,672	\$4,000	\$10,000
4) Eligibility Requirements	Limited to direct timber jobs (FSC Code 24). Does not include pulp and paper workers, transportation, certain self-employed or logging equipment manufacturers or suppliers.	Workers whose companies have been certified by DOL as impacted by foreign imports.	Families whose dislocation directly results from the reduction of forest floor enhancement, transportation or production. This would include pulp and paper, log truck drivers, log skidders, self-employed loggers and logging equipment manufacturers or suppliers.
5) Program Duration	18 months	Permanent entitlement	October 1, 1991 to Sept. 30 1995

Comparison developed jointly by Governor's Timber Team, International Woodworkers of America and Washington State Labor Council. Timber Community Farmers Act is the program the Governor and labor would like Congress to pass.

	EDWAA DISCRETIONARY GRANT	TRADE ADJUSTMENT ACT (TAA)	TIMBER COMMUNITY FAIRNESS ACT
6) Training	78 weeks of training maximum, but likely outcome is less than 53 weeks due to time restrictions. Limited to occupational skills. Excludes academic, literacy, GED, or remedial. Dollar allowance is inadequate for most training program completion.	104 weeks of training: - Literacy, basic skills vocational, academic, GED are all eligible. - Pays for cost of complete eligible programs.	104 weeks of training: - Literacy, basic skills vocational, academic, GED are all eligible. - Pays for cost of complete eligible programs.
7) Training Allowances or Income Support	UI: only 30 weeks	UI: 30 weeks plus Maximum of 48 weeks training allowances (after exhaustion of UI equal to Weekly Benefit Amount or a waiver of training provision).	UI: 30 weeks plus. Allowance for full length of training payable at UI Weekly Benefit Amount or lower level income standard, whichever is higher (and include waiver of training provision).
8) Self-Employed or Other Non-UI Eligible Covered	Eligible for training	Eligible for training only. No income support.	Eligible for training and income support at lower level income standard while in eligible training program.
9) Job Search	Limited job search assistance (a part of total cost per participant).	Out of area job search assistance. Maximum of \$800.00 per participant. (May be multiple trips.)	Out of area job search assistance. Maximum of \$1,800.00 per participant. (May be multiple trips.)

Comparison developed jointly by Governor's Timber Team, International Woodworkers of America and Washington State Labor Council. Timber Community Fairness Act is the program the Governor and labor would like Congress to pass.

REVISED COMPARISON OF SERVICES TO TIMBER WORKERS
(Washington State Only)

	KOWIA DISCRETIONARY GRANT	TRADE ADJUSTMENT ACT (TAA)	TIMBER COMMUNITY FUNDING ACT
10) Relocation	Limited relocation assistance (a part of total cost per participant).	80% of relocation costs plus up to \$400.00 lump sum payment.	80% of relocation costs plus up to \$400.00 lump sum payment.
11) SUPPORT SERVICES			
Transportation and Per Diem		Payments while in training outside the local labor market area.	Payments while in training both local and outside the local labor market area.
Child Care	Combined supportive services limited to no more than 20% of total grant amount.	0	Reimburse for number of days in training.
Emergency Medical		0	Based on need.
12) Health Care	0	0	Pay COSBA or Washington Basic Health Plan
13) Direction and Administration	SEEA/PGC Labor Management Committee	SEEA	SEEA Labor Management Committee

Comparison developed jointly by Governor's Timber Team, International Woodworkers of America and Washington State Labor Council. Timber Community Fundings Act is the program the Governor and labor would like Congress to pass.

House Subcommittee on Forests, Family Farms, and Energy
House Agriculture Committee
Harold Volkmer, Chairman

Testimony by Craig Partridge
for Brian Boyle
Washington State Commissioner of Public Lands

May 29, 1991

Chairman Volkmer, I am here today on behalf of Brian Boyle, the Washington State Commissioner of Public Lands, the elected official responsible for the State Department of Natural Resources.

I congratulate and thank you for your leadership on this issue of great importance to Washington State citizens. Commissioner Boyle also recognizes I thank Congressman Morrison for his great efforts seeking answers to the very difficult management problems confronting Pacific Northwest forests. We applaud your leadership last year, and are gratified to see your involvement this year.

Chairman Volkmer, last summer you were kind enough to travel to Olympia, Washington, to hold a hearing on forestry and spotted owl problems in our territory. Commissioner Boyle's testimony lamented the uncoordinated approach the federal government toward national forest management and spotted owl preservation. He told you then that the state was being left to bear the burdens created by federal floundering.

While Commissioner Boyle and other Washington State officials had worked hard to find balanced, consensus solutions to these issues, the fruits of their efforts were being poisoned by the growing polarization caused by federal actions. I regret to say that polarization and confusion has only worsened since last summer.

Most recent events, of course, were the Fish and Wildlife Service critical habitat proposal and Judge Dwyer's injunction. Commissioner Boyle testified last week that the excessive critical habitat proposed would be a disaster for our state and must be withdrawn. We cannot believe Congress' intentions in the Endangered Species Act were so mysterious or unreasonable as to have created the miserable situation Fish and Wildlife has now presented.

Therefore we welcome Congress' efforts to help shape a reasonable resolution to this problem.

To be truly helpful, a Congressional solution must meet two conditions.

First, a Congressional solution must resolve the spotted owl debate for both federal and nonfederal lands, as much as possible.

Testimony by Craig Partridge
May 29, 1991
Page 2

Second, a Congressional solution must provide an adequate and reliable timber supply from federal forests to support our forest products industry.

Any bill you consider will either be an "ancient forest" preserve bill, which may be fairly modest, or an owl conservation bill that incidentally includes "ancient forest" preserves. If you choose the latter, you can either help us or hurt us.

You will hurt us if you invoke the Endangered Species Act and spotted owls to justify creation of large forest preserves, but then leave Fish and Wildlife free to continue its uncoordinated and disastrous efforts to implement the Endangered Species Act in addition to your legislation.

Such an approach on your part would simply pile on restrictions and confusion, creating double jeopardy for the citizens of our region.

You can help us if you create a biologically credible and balanced owl plan for federal forests, and also provide guidance to the Fish and Wildlife Service for protecting this species. We are not suggesting that the Endangered Species Act necessarily be amended, but rather that Congress provide direction to the extent possible that its own action is sufficient to meet the requirements of the Act. A similar approach was used in Wilderness legislation indicating sufficiency for the National Environmental Policy Act.

A sufficiency provision would be especially important to the twelve million acres of nonfederal forest lands in Washington State. These state and private lands have been thrown into increasing uncertainty with each new federal proposal for owl habitat protection: from the Jack Ward Thomas recommendation, to the Fish and Wildlife Service's "take" circles, to the latest critical habitat proposal, and the upcoming recovery plan.

Every new proposal gobbles more state and private lands; the very lands our industry depends upon for the future. Most of this land does not even have owls. So to a large degree the owl protection Congress may provide on federal lands ought to permit the release of nonfederal lands from the uncertainty the Fish and Wildlife Service's actions have created.

I mentioned a stable supply of timber. Congressional action that truly helps us will not make timber supply promises the Forest Service cannot keep. Neither will it cut off supplies to a stable trickle. We do not have a magic cut level number. The level you specify in legislation must be realistic based on the owl protection you intend to provide. But please give the Forest Service the means to deliver the amount you specify. The Forest Service will need funding, an expedited judicial review process, and whatever else it takes to guarantee a fair timber supply level.

mony by Craig Partridge
29, 1991
3

ate now seems to be raging over the proper role of "new forestry" in owl
rvation. New forestry ideas must be tested and not either accepted or
ed as an article of faith. The future importance of "new forestry" concepts
beyond owls and may effect the entire practice of forestry. This
sional evolution should not be politicized. Most foresters seem convinced
silviculture can contribute to owl conservation along with set asides. Those
disagree may be more anti-forestry than pro-owl.

commend that research and active management have a place in your
ation, as an alternative to set asides in some cases and not just piled on
f set asides. Proposals such as our Olympic Experimental State Forest on
lands could play a role here, if not foreclosed by the Fish and Wildlife
ce's take prohibitions and critical habitat.

k you again for the opportunity to testify. Commissioner Boyle has
ed the disintegration of federal policy on this issue with the same
ernation you have no doubt felt. But he has not lost his belief that
ced solutions can be found. He stands ready to assist Congress as you
to create solutions to this problem.



SOCIETY OF AMERICAN FORESTERS

*Professionals advancing the science, technology, practice and
teaching of forestry to benefit society*

5400 Groveside Lane • Bethesda, Maryland 20814-2106 • (301) 657-5720
FAX: (301) 657-5880

May 28, 1991

PRESIDENT
ROSS E. WHALEY
President
State University of New York
College of Environmental
Science and Forestry
Syracuse, NY

VICE PRESIDENT
WILLIAM J. BARTON
Senior Consultant
Barnstable, MA

EXECUTIVE VICE PRESIDENT
WILLIAM H. BENSCHAF
Bethesda, MD

INTERMEDIATE PART PRESIDENT
ARTHUR V. BRYTH
Consulting Forester
Alexandria, VA

COUNCIL MEMBERS

ROBERT W. BOSWORTH
Forest Chief
North Idaho Intermountain
Barnes Ferry, ID

JANE A. DUFFY
Regional Manager
Northern Region
American Forest Council (AFC)
Barnington, VT

JAMES E. FIDKE
Forest Staff Officer
Forest National Forester
Steamboat Springs, CO

MAX D. FULTON
Manager
Barnes Land & Forestry
Grand Rapids, MI

JOHN F. HOSNER
Director
School of Forestry & Wildlife Res.
Virginia Polytechnic Institute
and State University
Blacksburg, VA

ROBERT E. LEE, III
Director of Land Res.
Union Camp Corporation
Fayetteville, AL

DEAN R. LUCKE
Range Unit Chief
Calif. Dept. of Forestry
and Fire Protection
San Jose, CA

ROBERT S. METZGER
Forest Planning Consultant
Portland, OR

JOHN W. MOSEB, JR.
Professor of Forest Ecology
Department of Forestry
and Natural Resources
Purdue University
West Lafayette, IN

BRIAN R. PAYNE
Deputy Director of
International Forestry
U.S.D.A. Forest Service
Washington, DC

WILLIAM C. SIEBEL
Research Project Leader
U.S.D.A. Forest Service
New Orleans, LA

Harold L. Volkmer, Chairman,
Committee on Agriculture
Subcommittee on Forestry, Family Farms, and Energy
United States House of Representatives

Dear Mr. Chairman:

Enclosed, please find copies of two Society position papers, one on old-growth forests, the other on community stability. Each of these papers expresses the Society's approved positions on matters before your committee, specifically legislation proposed in HR 1309, HR 1590, and HR 842 that deal with community stability and ancient forest protection.

The Society of American Foresters is a national organization representing the forestry profession in the United States, including public and private practitioners, researchers, administrators, educators, and forestry students. Now in its 91st year, membership numbers over 18,000.

We do not, at this time, take a position for or against HR 1309, HR 1590, or HR 842. However, we request that our enclosed position statements be entered into the official record of the discussion about these bills. We hope that these position statements will be useful to you and the committee as the bills in question wind their way through the legislative process, and look forward to working with you and your staff toward a successful outcome.

Sincerely,

William H. Benschaf
William H. Benschaf
Executive Vice President

NHB:cs

Enclosures:

OLD-GROWTH FORESTS IN THE PACIFIC NORTHWEST

Statement for the Record
before the
Subcommittee on National Parks and Public Lands
Subcommittee on Forests, Family Farms, and Energy
June 20 and 22, 1989

A Position of the Society of American Foresters*
Old-Growth Forests

Old-growth forests are valuable for ecological, scientific, and aesthetic reasons in addition to their timber production value. Old-growth ecosystems are located in areas allocated for timber harvesting and areas reserved for wilderness, national parks, and research. The Society recommends that public-land managers develop policies to maintain old-growth ecosystems, to keep management options open, and to allow the harvest of unreserved old-growth forests.

Definition and Inventory

A useful definition of old-growth ecosystems in Douglas-fir forests of the Pacific Northwest has been developed. This definition is based on the ecological characteristics of stands that describe their structure, composition, and function. While the definition needs further refinement for inventory purposes, it provides a more appropriate means of identifying old-growth forests than age alone.

Many of the present conflicts are over differences in the definition and quantity of old-growth forests. In the mid-1980s, the USDA Forest Service used a classification that grouped mature and old-growth stands together, while the Wilderness Society employed a definition with additional criteria for old-growth forests which it used for its survey three years later. The different definitions resulted in two different estimates of old-growth acreage.

The Society of American Foresters recommends that an ecological definition of old growth within Douglas-fir ecosystems be adopted by the Forest Service and other public agencies principally responsible for managing old-growth forests in the Pacific Northwest. The Society recommends refinement of this

*Adoption renewed, with revision, by the Council of the Society of American Foresters on July 6, 1989. Originally adopted on May 2, 1984, and revised by the Council on November 10, 1987. This position will expire after three years unless, after thorough review, it is renewed by the SAF Council.



definition to facilitate its use in forest inventory. Ecological definitions of old-growth ecosystems should be developed for use on other forest types, as well.

Once old-growth ecosystems are well defined, managers need an adequate inventory before they can make decisions about management, including harvesting. Existing inventories are inadequate on public lands in the Pacific Northwest. An adequate inventory should include data on stand structure, stand composition, quantity, and geographic distribution. The Society recommends that public land managers modify their inventory practices to identify old-growth ecosystems on public forests, including lands excluded from harvest.

Land Allocation

While timber production is one important forest use, some land should be maintained in an old-growth state for wildlife habitat, aesthetic enjoyment, scientific study, and primitive recreation. Allocation of the nation's forest base often creates intense public and professional debate about the amount of land designated for intensive timber management and for other primary uses such as wildlife habitat, developed recreation, or wilderness. The Society believes the objectives of forest owners should be the basis for resource management decisions. In the case of federal land, this is the public. Once these objectives have been established, foresters should manage those lands accordingly.

Planning for land allocation includes assessments that would address (1) the spatial distribution needed to cover ecological, historical, and biological considerations, (2) the compatibility of a set-aside designation with other resource-management activities, such as habitat for wildlife species, (3) the potential impact on the well-being of local economies, and (4) an assessment of the cumulative demands of national and regional constituent's needs versus local constituent's needs.

Land-Planning Process

In response to public controversy about federal land management in the 1970s, Congress enacted the 1974 Forest and Rangeland Renewable Resources Planning Act, the 1976 National Forest Management Act for the Forest Service, and the 1976 Federal Land Policy and Management Act for the Bureau of Land Management. Although the planning process authorized by this legislation is very complex, the Society believes it is responsive to public input and can serve as an effective means to manage conflicts in allocation.

The Society is concerned that, through intervention on the old-growth issue, Congress will interrupt the planning process before it is completed. By assuming this responsibility, Congress would be weakening the very purpose of planning and setting an undesirable precedent. The Society is deeply concerned about the implications of forest planning from the House and Senate floor and the resulting impacts on professional management of federal land by the Forest Service and the Bureau of Land Management.

The Society supports sound professional management of natural resources and can expand its role to function as an arbitrator in certain land-management situations. The Society does not advocate one land use over another, but believes that foresters and other professional resource managers should be actively involved in the allocation process by objectively identifying the social, economic, and ecological costs and benefits of allocation alternatives.

Recommendations

The Society supports an ecological definition and believes that improved inventories are essential to the allocation and the management of old-growth forests.

- The Society believes that land should be allocated to meet public objectives.
- The Society supports the existing planning process as the most appropriate method for land management on public lands.
- The Society is willing to assist in facilitating agreement on this issue between interested parties.

THE STABILITY OF FOREST-DEPENDENT COMMUNITIES
A Position of the Society of American Foresters*
Introduction

The subject of community stability has long been of vital concern to the American forestry profession, and the concepts of sustained-yield and community stability have played major roles in forest policy debates in the United States for over a century. Community stability concerns have grown in recent decades as a result of formalized public participation in national forest planning and increased competition over public old-growth timber in the West, and it has become clear that communities depend on forests for more than just timber and jobs.

Definitions

Although the term is commonly used, there is no universally accepted definition of "community stability". The first step toward a definition is to recognize that all communities have numerous important economic and social dimensions. Then, for the purposes of this discussion:

Forest-dependent communities are defined as "geographic or political subdivisions, in some proximity to forests, which are significantly affected socially or economically by the use of forest resources". Shared interests are also important to the concept of community.

Stability is best defined as "a process of orderly change". The goal of stability, therefore, focuses on maintaining a community's ability to adapt to change, rather than maintaining the community in isolation from change.

The stability of a forest-dependent community or community stability, therefore, is "the process of orderly change in the economic and social relations of a community", and is of interest here primarily as it relates to the community's use of forest resources.

These definitions are broad enough to encompass economic and social components of stability, the diverse values of forests, and the fact that community change is inevitable in a changing world. This approach suggests an acceptance of continual adjustments that avoid intermittent periods of trauma-

*Adopted by the Council of the Society of American Foresters on April 23, 1990. This position will expire after three years unless, after thorough review, it is renewed by the SAF Council.



Using the Scientific Knowledge and Technical Skills of the Forestry Profession to Benefit Society

tic adjustment as meeting the best long-run interests of communities and their members.

Community stability is not the same thing as industrial stability. Although the interests of communities and industries coincide in many instances, this is not always the case. Similarly, communities usually include a number of different firms and industries whose individual interests do not always coincide.

The Dynamic Nature of Community Stability

Most past discussions on the stability of forest-dependent communities have centered on the question of timber supply. Unfortunately, the topics of sustained-yield of timber and community stability generally have been discussed with the belief that the former is a direct route to the latter, but stable resource supply cannot guarantee community stability. The relationship between the two is actually much more complex and includes factors such as competition, fluctuating markets, other industries, and technological change.

Competition can and does threaten the stability of forest-dependent industries and communities. Industries often respond to competition with changes in technology. The substitution of new technology for labor often costs jobs, but greater job skills and higher wages usually accompany the resulting increased productivity. This tradeoff is generally unavoidable if permanent decline is to be staved off. Diversification of basic industries is often necessary to make up for the loss of jobs that results.

Decline in basic industries can reduce a community's tax base and strain the provision of services. A downward spiral can then set in as reduced services and a deteriorating infrastructure make a community less attractive for new or expanded enterprises. Prevention is the best remedy for such decline, requiring active community leadership that is committed to maintaining an attractive business and residential environment.

Predictability is vital for community adaptability. Public agencies and private organizations can destabilize communities by creating conditions of uncertainty or abrupt changes (particularly reductions) in the availability of resources which a community has relied upon in the past. Excessive and prolonged uncertainty leads to disorganization and maladaptation.

Although the current community stability debate centers on timber supply declines in the West, stability can also be garnered through forest-dependent economic development programs. For example, the states of Michigan, Minnesota, and Wisconsin have embarked on an economic development initiative based on the management of their diverse forest resources.

There are also other dimensions to the relationships between communities and forest resources. In many cases, for example, recent migrants to forest-based communities provide a significant source of economic benefits in the form of transfer payments. Many such migrants and long-time residents place great value on the quality of life afforded by close proximity to forests and are

willing to trade off the economic benefits of urban living; the availability of such choice is an important aspect of American life.

Factors Affecting Community Stability

External social and economic change is a fact of life over which local communities have extremely limited control. Communities can influence their destinies, however, by the ways in which they choose to use available physical and human resources to deal with external changes.

The capability of a forest-dependent community to undergo orderly change depends on a number of external conditions over which communities have little or no control and internal conditions which they can control. The most important external conditions affecting communities are viable markets for products or services, availability of capital for developing productive enterprises, access to technology for producing and distributing goods and services, readily available raw materials or other natural resources, and stable property rights. Important internal conditions discussed below include diversity of the community's economic base, the development of its infrastructure and services, an educated work force and citizenry, community governance through effective social organization, and community morale.

Diversity: A reduction in employment in one industry can coincide with the growth of others. A strategy of diversification can work for some forest-dependent communities. Such diversification, however, may require significant social and other changes.

Infrastructure: Improvement in the level and quality of public services is essential for enhancing a community's capacity to retain population and economic investment, as well as its ability to grow and diversify. External support from government and/or business may be the only remedy when external conditions cause a community's infrastructure to decline.

Education: An educated citizenry and work force are necessary to respond constructively to setbacks and opportunities. Local people who are more aware of economic, political, and social processes are generally more effective in community and economic development activities. Education may be the most important contribution that rural communities can make to promoting orderly change.

Social Organization: People must be able to work together effectively if they are to adjust to economic and technological change. Improvements in community infrastructure and education require cooperation, strong community leadership, and a willingness to sacrifice immediate benefits for future gains. A community must have successful institutions for self-governance.

Community Morale: Every successful community has a sense of identity or a shared image of itself. Communities that take pride in their shared way of life are generally more successful in eliciting citizen participation in self-governance and support for schools and local projects.

The most important planning device which communities can use is timely and accurate information about their future or possible alternative futures. Similarly, communities can benefit greatly from information concerning realistic possibilities for economic diversification. Federal agencies or State and county extension agents can help to make such information available.

Community Development

For at least fifty years, community development professionals have helped communities adjust to external changes by offering knowledge of how community external changes can be brought about and sustained. Experts in community development can provide foresters and other land-management planners with the information they need to assist forest-dependent communities. Community development assistance can also help to mitigate the effects of forest management policies which alter historic patterns of resource use.

In the past, forest managers have made significant contributions to community growth and morale by helping to organize youth groups, joining service clubs and churches, encouraging the formation of civic improvement organizations, providing the impetus for better public services, and helping to promote community events. Renewed involvement in community development is one of the most important contributions that can be made in promoting community stability.

Recommendations

The economic and social concerns of local citizens should be carefully considered by natural resource managers when determining policies that affect community stability. Natural resource policies should allow forest-dependent communities to adapt and prosper by balancing local needs with regional and national interests. Forest managers should avoid making short-term decisions that reduce a community's long-term options.

Resource management decisions concerning the social and economic well-being of forest-dependent communities should be based upon the capabilities of forest ecosystems to produce sustained multiple benefits. Resource management decisions concerning the use of public forest resources should take into account the uses of adjacent lands.

Agencies should assess, and make available to the public, information about the effects of land-management decisions on local economies, private property rights, and social well-being.

Forest managers should work with local government officials on all policy and administrative issues that may affect local communities.

Public agencies and industries should cooperate with communities to minimize the abruptness of adverse economic and social changes.

Procedures should be developed by forest managers to promote more effective communication with community members.

Forest managers should assist in the development of alternative economic enterprises in forest-dependent communities.

Forest managers should assist and encourage local communities to place a high priority on education in forest-dependent communities to promote individual initiative and adaptability.

Forest managers should solicit assistance from other public agencies to help achieve community stability.

Forest managers should help to reduce uncertainty by developing new procedures for resolving land-use conflicts affecting community stability.

Public land managers and researchers should cooperate in developing guidelines for planning resource decisions that affect community social and economic life.

Public resource agencies and researchers should develop social and economic analysis techniques which take into account the dynamics of community development, and these techniques should be used in land-management planning.

Conclusion

Forest-dependent communities are not immune to change. The relationships between the management of forests and the stability of forest-dependent communities are dynamic and complex, and there is no universal formula to assure the stability of forest-dependent communities through management of forest resources. The above recommendations are offered for use by forest managers and policy-makers to consider in their efforts to integrate land management and community development concerns.

ROD CHANDLER
SEVENTH DISTRICT WASHINGTON

COMMITTEES
WAYS AND MEANS
POST OFFICE AND CIVIL SERVICE

323 CARMON BUILDING
WASHINGTON, DC 20515
(202) 725-7761

DISTRICT OFFICE
3526 160TH AVENUE SE
BELLEVUE, WA 98006
(206) 442-0116

Congress of the United States
House of Representatives
Washington, DC 20515

Statement of Congressman Rod Chandler
Before the Subcommittee on Forests, Family Farms, and Energy
Committee on Agriculture

May 29, 1991

Mr. Chairman, as you know there is much turmoil in the Pacific Northwest due to the spotted owl, old growth, and timber supply crisis. In my district we are graced with the scenic beauty of the Mt. Baker-Snoqualmie National Forest, and we are also proud to have some of the timber dependent communities which exist in and around that forest.

The issues we must now confront are difficult and complex; stabilization of the lives of thousands of workers, protection for the spotted owl and other threatened or endangered species, critical habitat designation, old-growth protection, forest management practices, and sustainable forestry to name a few. What we must actively seek is a healthy and balanced relationship between the needs of people and our environment.

Congress has sought in the past to develop a well-balanced equation which factors in the needs of all living beings, be they plant or animal, to sustain a healthy ecosystem. These protected species, however, must include the families of fine men and women who work in our forests and mills. It is vital that we recognize the merits of protecting both people and our lands so that they may flourish and prosper symbiotically.

I am pleased that the Committee is today considering H.R. 2463, the "Families and Forests Protection Act of 1991", of which

THIS STATIONERY PRINTED ON PAPER MADE OF RECYCLED FIBER

I am an original cosponsor. This legislation is a step in the right direction. H.R. 2463 offers a balanced, comprehensive and common sense approach to forest conservation. It is unique among the myriad of forest legislation being considered today in that it provides for old-growth reserves, spotted owl protection, timber supply stability and worker economic assistance.

In accordance with America's pride in and concern for our forests, H.R. 2463 proposes to establish old-growth reserves and spotted owl protection. Extensive research would include a five year study of old growth ecosystems and new forestry techniques while offering protection to unfragmented old-growth areas and vulnerable species.

While H.R. 2463 offers protection for old-growth ecosystems, and species such as the spotted owl, it also highlights the important need for community stability. For instance, Title II of the legislation includes a provision that would require the Forest Service to assess and consider the effect their actions would have on communities dependent on the National Forests. This is only fair to local governments and the people in those communities. If the Forest Service is going to drastically change the way it has been managing its forests, local workers and governments should have the opportunity to plan and prepare for such a change.

In addition, soon I will introduce the "Targeted Dislocated Workers Assistance Act", which will assist displaced workers to qualify for new employment opportunities. An adequate and stable timber supply is, of course, the best way of ensuring a secure

job for the people of my state who derive their living from the woods. Achieving that supply of timber is my number one priority. But for those who already have lost their jobs or, unfortunately, will lose their jobs to federal or court-imposed mandates to protect spotted owl habitat, Congress should extend a helping hand.

The Targeted Dislocated Workers Assistance Act will extend unemployment compensation by 26 weeks for those dislocated workers who enroll in job re-training or education programs. Additionally, my bill will amend current law to provide the states with additional resources under the Job Training Partnership Act, and with greater flexibility to spend federally-distributed funds on retraining and support services such as child care, home costs and health insurance. Above all, those of us in Congress need to ensure that these proud and determined people are able to provide for their families while they work to secure new employment opportunities.

While the people of Washington State do not support an "open season" on our National Forests, displaced workers need a fair shake. The great concern for the protection of old-growth ecosystems and the species which enrich our forests must be accompanied by a reliable measure of certainty and stability. The Families and Forests Protection Act of 1991 and my Targeted Dislocated Workers Assistance Act offer rational, yet sensitive solutions to crises enveloping this country. They should be considered in accordance with their merits.

Thank you Mr. Chairman.

**Statement of
The Honorable John T. Doolittle
U.S. House of Representatives**

**House Agriculture Committee
Subcommittee on Forest, Family Farms and Energy**

May 29, 1991

Mr. Chairman and Members of the Subcommittee:

I am pleased to have this opportunity to come before you today to testify on behalf of the small, rural, timber-dependent communities of Northern California and the Pacific Northwest.

I have represented many of the timber communities in Northern California for seven years, and they have never faced a greater threat to their existence than they do in 1991.

The protectionists and the timber industry have always been at odds, but recently it seems the debate over forest practices has changed from one of reason and balance to one of emotion and selfishness.

The selfishness of the protectionists has now forced the timber industries and virtually every community in the Pacific Northwest to fight for their survival. If they lose, they face economic devastation and thousands of lost jobs.

It's absurd to think that anyone wants to see the Spotted Owl destroyed. And no one wants to misuse the forests of the Pacific Northwest. But I for one can't stand by and see thousands of my constituents and other residents of our region be forced from their jobs and homes because Congress is unwilling to stand up to the selfish political agendas of a few small but noisy organizations.

No serious attempt has been made by these organizations to strike a balance in their legislation. In Northern California, timber harvest levels on the four national forests that contain Spotted Owl habitat have been reduced from an average of 631 million board feet for the years 1980 to 1989 to a projected level of 265 million board feet in 1991. This level is a reduction of almost 60 per cent.

The protectionists talk of the plight of the owl — *an owl which studies have shown actually thrives in second growth timber* — but they neglect to mention the impact on the average American on sharply reducing timber harvests. How would this nation survive if the protectionists had their way? There would be no lumber for home construction, no paper, no pencils, no timber for fuel, furniture or office products.

The protectionists are using the Spotted Owl as a tool to stop all timber harvests. If they didn't have the spotted owl, they'd find some other animal to "protect." Indeed some of their spokesmen have referred to the owl as a "surrogate species," meaning a surrogate for the ultimate objective: a cessation of logging in the national forests.

It's time Congress told the protectionists that it will accept nothing less than a reasoned approach to this issue. That's why I am proud to be an original cosponsor of both H.R. 2463, the Forests and Families Protection Act, and H.R. 1309, the Community Stability Act of 1991.

H.R. 2463 establishes an Old Growth Reserve in the Pacific Northwest, which calls for old growth protection and management, benefitting both the timber industry and the Spotted Owl.

And, more importantly, both H.R. 2463 and H.R. 1309 require that a community's dependence on timber be evaluated and weighed before harmful actions are taken on a forest plan.

Two other measures being discussed today — H.R. 1590 and H.R. 842 — would simply ruin the lives of many who rely on the timber industry. These bills would devastate whole communities in the Pacific Northwest.

At a time of economic weakness in America, it would be unconscionable for Congress to take an unbalanced action that would jeopardize an entire segment of our labor force and create ripples of devastation throughout the economy.

Thank you again, Mr. Chairman and Members, for giving me the opportunity to testify in support of thousands of my constituents and neighbors to our north.

BARBARA ROBERTS
GOVERNOR



OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM, OREGON 97310-0370
TELEPHONE: (503) 378-3111

May 28, 1991

The Honorable Harold L. Volkmer, Chairman
Forests, Family Farms, and Energy Subcommittee
Committee on Agriculture
1301 Longworth House Office Building
Washington, D.C. 20515-6001

Dear Chairman Volkmer:

The State of Oregon and the Pacific Northwest need your help. We are struggling to deal responsibly with the difficult conflict between human needs and environmental values. We are strongly committed to careful stewardship of our natural resources and environment and yet, that commitment carries with it a heavy toll on our timber communities and economy. We are hopeful that federal legislation can help resolve these important issues, and soften the blow to our citizens.

We are looking to your committee to help craft landmark natural resource and human resource legislation; for it will require a combination of both to deal effectively with the complex issues presented by the controversy of the Northern Spotted Owl.

Oregon is no stranger to landmark environmental legislation. In fact, we have become a national leader by enactment of state laws on water and air quality, regulation of commercial forest practices, recycling, and land use planning. We take immense pride in our natural resources, and believe that sound resource management demands sound environmental protection as well. We are committed to continuing this tradition in seeking to resolve the timber issues. And, we believe this proven record on environmental protection should lend credibility to our plea for more balance and coordination in federal timber management and endangered species programs.

At a state level, I announced recently our Timber Response Plan that will take a three-pronged approach in defining and stabilizing the timber supply, helping communities diversify, and providing real support to affected workers.

State efforts to stabilize the timber supply will include continued participation in federal planning efforts. We are providing in-depth technical analysis and recommendations to the Forest Service and Bureau of Land Management through the Governor's Forest Planning Team. We are urging federal agencies to review policies for salvaging dead and dying timber stands in Eastern Oregon, and we are intensifying management of our state forest lands in order to boost long-term yields. We are also providing technical support and incentives to private owners of small, non-industrial woodlots, in order to increase production and yields.

In addition, we are investing a great deal of time and effort in the federal Spotted Owl Recovery Team. We are urging federal agencies to focus on the Recovery Team process as the most sensible way to coordinate environmental protection and forest management efforts. We are working with other members of the Recovery Team to develop a Recovery Plan that is environmentally sound, with the least cost to Oregonians.

In recognizing the need to help timber communities diversify their economic base, we recognize as well that this will be a long-term process. In the meantime, many timber workers have already lost their jobs. Our communities are in crisis. Immediate support is needed. Through our Community Initiatives and Regional Strategies Programs, we will provide options to workers and communities. If workers want retraining, we believe it should be offered to them. At the same time, they will need expanded unemployment benefits to accomplish the retraining.

Through these various efforts, we are marshalling resources at the state level to respond to difficult times. But all our efforts will not be enough without your support. Federal legislation is needed to help finally resolve the wrenching and disruptive issues facing our people and our forest lands. Only federal lawmaking can bring certainty and clarity to the chaos that currently exists.

We urge your careful consideration of the proposals before you. Responsible federal legislation should contain the following elements:

- 1) Be environmentally responsible but with the least cost to Oregonians.

The bill should be scientifically credible and provide adequate protection for the Northern Spotted Owl and other threatened and endangered species that rely on old growth forests. Further, ecologically significant old growth stands should be identified and protected. Legislation should be fashioned in such a way to minimize the economic costs to our communities. We are hopeful the federal Recovery Team process will provide the basis for such protection.

2) Define and stabilize the timber supply.

Ensuring a stable timber supply will be one of the most important ways to maintain jobs for our timber workers. A means to achieve a long-term, stable supply of timber is of utmost importance, but the timber supply targets should be realistic and achievable. It would be preferable to have certainty in reduced harvest levels than to continue the present course of constant appeals, withdrawals, and injunctions.

3) Provide community assistance and real support to affected workers.

You must consider the needs of workers and communities that are so adversely affected by federal decisions. Our communities need help now. Too many workers and their families have suffered from the devastating consequences of unemployment. Workers and local governments should be compensated for their losses.

For workers, the compensation should be channeled through increased income support especially for workers who are not eligible for unemployment benefits because of cutbacks in hours worked or because their benefits have already been exhausted. Benefits should be linked to participation in federally funded job search and training programs. Health care coverage and child care services should be provided for eligible workers and entrepreneurs.

Communities need the means to expand and diversify their economies. Additional funding for loans and other economic development efforts would supplement state funding and leverage a significant amount of private investment. There is a need to be additional assistance for communities which are being asked to provide more social services, while receiving less revenue from timber receipts and local property taxes.

Local governments in Oregon depend heavily on revenues from federal lands receiving 25 percent of the gross receipts from National Forests and 50 percent of the gross receipts from "O & C" lands managed by the BLM. These payments were established long ago in agreement with the federal government in recognition of property taxes that were foregone when the federal lands were established and private land development was excluded. The payments are essential to fund important local government services and schools.

Because our local governments rely heavily on these payments that serve as a substitute for property taxes, they should be compensated justly for lost revenue due to federal actions. The 1990 Interior appropriations bill contained language that ensured that a county's receipts could not be less than 90 percent of the average receipts over the 1988-90 period. Similar ongoing compensation should be provided to local governments; otherwise, schools and local government services will suffer greatly.

4) Provide for additional research funding.

Additional funding is needed to examine ways to manage forests in an enlightened way consistent with our objectives of maintaining productive forests, soil, air and water resources and providing for wildlife and aquatic life.

Thank you for this opportunity to comment. We realize you have a great challenge before you, and we look forward to working with your committee in developing a responsible package to deal with Northwest Timber issues.

Sincerely,



Barbara Roberts
Governor

THO:607

cc: Senator Mark Hatfield
Senator Bob Packwood
Representative Les AuCoin
Representative Bob Smith
Representative Ron Hyden
Representative Peter DeFazio
Representative Mike Kopetski

**STATEMENT OF REPRESENTATIVE GERRY SIKORSKI ON ANCIENT FOREST
PROTECTION LEGISLATION BEFORE THE HOUSE AGRICULTURE
SUBCOMMITTEE ON FORESTS, FAMILY FARMS AND ENERGY**

America has long been acclaimed worldwide for its natural wonders. We have also been acknowledged as the international leader in stewardship of our natural resources, national parks, national forests and scenic rivers. This reputation, I fear, stands in jeopardy today because of efforts to clearcut the last remaining intact stands of ancient forest in the Pacific Northwest.

This committee and this Congress have an opportunity, and a responsibility, to put in place permanent protection of the ancient forests, the living cathedrals of our nation's natural history. Failure to do so robs America's kids the chance to observe and learn the lessons of the ancient forests.

Last year I accepted an invitation to visit the Northwest forests and saw first hand the decimation of this world-class ecosystem. The devastation is staggering, and depressing, and infuriating. The logging of the ancient forests has left an unconnected patchwork of small old growth fragments, whose biological integrity has been severely compromised, if not destroyed. Had I not seen it with my own eyes I would never have believed that American governmental agencies and American economic interests could be so short-sighted and irresponsible with such a precious resource as the ancient forests owned by all Americans.

There should be no question any more about the damage that has occurred and the potential disaster that looms for the ancient forests. If we do not act now, experts say that logging will liquidate the last remnants of ancient forest within 20 years. So far, the best response of the U.S. Forest Service is to accept a plan that would result in the loss of half the remaining spotted owls, already a threatened species. Senior officials at the Bureau of Land Management have not even been willing to go that far.

The answer is not to cut more or cut faster in the ancient forests. Observers of the Pacific Northwest economy have reported that the timber industry in the Pacific Northwest, once the dominant economic force, is in the midst of a transition. It is a painful transition to be sure, especially for those who depend on the forests to make a living. Responding to competitive pressures in the international market, timber companies in the past decade have trimmed their workforce and improved their operating efficiency. In the past decade, the timber industry in the Pacific Northwest has become leaner and more efficient – I understand that several studies have shown that production of lumber and plywood is up 10 percent while more than 26,000 timber jobs have disappeared. Federal, state, and industry experts also note that industry retooling has been so efficient that in 1979, the average mill in the Pacific Northwest needed 4.5 workers to make each 1 million board feet of lumber; but by 1990, fewer than 3 workers were used to make the same amount of lumber.

It seems apparent from this trend that it is unlikely that more jobs will be generated by cutting more old-growth trees. Many credible analysts of this issue suggest the opposite is much more likely to occur – that faster logging of old growth will only reduce timber jobs more quickly than if a sensible management plan for this world class ecosystem is adopted – and soon.

Workers have also been hit hard by the industry's decade-long export bings. I understand that the equivalent of nearly 32,000 American jobs were lost to timber exports from Washington and Oregon to foreign countries in 1989. Today, experts point out, the U.S. is both the largest ~~exporter~~ of raw logs and largest ~~importer~~ of finished wood products.

The equation is not difficult to decipher: American workers are buying foreign made wood products manufactured from American trees.

What we have right now is a lose-lose situation. Fewer trees are being cut, to be sure, but the timber industry has not certainty about what its supply will be from the Pacific Northwest national forests. But old growth trees continue to fall nonetheless, and along with them, habitat for the threatened northern spotted owl and the Pacific yew tree, the source of a promising new anti-cancer drug. Cutting trees could very well end up costing lives. Protect the forests and help the region build a sustainable economy that recognizes the historical contribution of timber could provide unknown and untold benefits to workers and visitors in the Pacific Northwest, as well as all Americans in the future.

Congress must seize this opportunity to turn a lose-lose situation into a win-win one. We can have both ancient forests and a viable timber industry if we understand the natural linkage between environmental protection and a healthy economy. If we miss this chance our memories of both the timber industry and the ancient forests could be mere images on postcards from the past.

Thank you Mr. Chairman.

102D CONGRESS
1ST SESSION

H. R. 842

To provide for the protection of the remaining ancient forests on the Federal lands of the States of Washington, Oregon, and California, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 1991

Mr. JONTZ (for himself, Mr. ALEXANDER, Mr. ATKINS, Mr. BACCHUS, Mr. BARNARD, Mr. BEILENSEN, Mr. BENNETT, Mr. BEREUTER, Mr. BERMAN, Mr. BONIOR, Mrs. BOXER, Mr. BROWN, Mr. BUSTAMANTE, Mr. CAMPBELL of California, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. COOPER, Mr. DARDEN, Mr. DELLUMS, Mr. DUREIN, Mr. EDWARDS of California, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. FORD of Tennessee, Mr. GORDON, Mr. GOSS, Mr. GUARINI, Mr. HOAGLAND, Mr. HORTON, Mr. HUGHES, Mr. JACOBS, Mr. JOHNSTON of Florida, Mr. KOSTMAYER, Mr. LEVINE of California, Mr. LIPINSKI, Mrs. LOWEY of New York, Mr. GEREN of Texas, Mr. MACHTLEY, Mr. MFUME, Mr. MINETA, Mrs. MORELLA, Mr. NAGLE, Mr. NEAL of Massachusetts, Mr. OWENS of Utah, Mr. PANETTA, Mrs. PATTERSON, Mr. PAYNE of New Jersey, Mr. PEASE, Mr. PENNY, Ms. PELOSI, Mr. PORTER, Mr. PRICE, Mr. RAVENEL, Mr. RINALDO, Mr. ROE, Mr. ROSE, Mr. ROYBAL, Mr. SANGMEISTER, Mrs. SCHROEDER, Mr. SCHUEER, Mr. SCHUMER, Mr. SHAYS, Mr. SIKORSKI, Mr. SKAGGS, Mr. SMITH of Florida, Mr. SOLARZ, Mr. STARK, Mr. TALLON, Mr. TORRES, Mr. WALSH, Mr. WASHINGTON, Mr. WAXMAN, Mr. YATES, and Mr. ZIMMER) introduced the following bill; which was referred jointly to the Committees on Interior and Insular Affairs and Agriculture

A BILL

To provide for the protection of the remaining ancient forests on the Federal lands of the States of Washington, Oregon, and California, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Ancient Forest Protec-
5 tion Act of 1991".

6 **SEC. 2. FINDINGS.**

7 The Congress finds and declares the following:

8 (1) The ancient forests of the United States, com-
9 posed of trees of many species and often older than the
10 Nation itself, constitute one of the most important as-
11 pects of our national heritage, and should be passed on
12 intact, for the benefit and enjoyment of future genera-
13 tions.

14 (2) The ancient forests of the States of Washing-
15 ton, Oregon, and California, some of which contain in-
16 dividual trees up to 1,000 and more years old, thus are
17 more than a priceless national heritage; constituting
18 the last living links with the Middle Ages, they amount
19 to a spiritual resource unmatched anywhere else on
20 this planet, and thus deserve to be protected for the
21 enjoyment and benefit of the population of the world.

22 (3) The ancient forests of the Nation are remnant
23 homes to endemic, rare, threatened and endangered
24 species of plants, fish, and wildlife, and further dimin-

1 tion of these forests could result in the extirpation or
2 extinction of said species.

3 (4) The ancient forests and their clear streams are
4 currently used by thousands of Native Americans in
5 the practice of their various religions.

6 (5) The ancient forests of the Nation, in their
7 present state, can and do provide outstanding and
8 unique recreational experiences for a growing popula-
9 tion.

10 (6) The ancient forests of the Nation provide
11 unique and unparalleled opportunities for scientific
12 study and research, including medical research, and, as
13 such, may contain the secrets to advance medical
14 knowledge and the prevention, cure or treatment of
15 disease.

16 (7) The ancient forests of the Nation, in many
17 places, particularly in mountainous watersheds, retain
18 and release water, thus guaranteeing populations
19 downstream a steady and assured supply of clean, high
20 quality water for agricultural, industrial, municipal,
21 fish, wildlife, and recreational purposes during the dry
22 months.

23 (8) Many ancient forests support streams and
24 rivers where natural wild runs of salmon and steel-
25 head, and resident cold water fish, are wholly depend-

1 ent on a quality and quantity of water for migration,
2 spawning, rearing, and cover that can only be main-
3 tained by preserving ancient forest watersheds.

4 (9) The ancient forests of the Nation hold their
5 highest values as intact, natural ecosystems that have
6 developed over thousands of years, and such eco-
7 systems are not renewable after logging for many
8 centuries.

9 (10) The ancient forests of Washington, Oregon,
10 and California contain vast nontimber economic values
11 that are critical to economic stability and economic di-
12 versification of the Nation and the Pacific Northwest.

13 (11) For the last two centuries, the policy of both
14 government and private interests has been to liquidate
15 through logging all accessible stands of ancient forests
16 as quickly as possible, with the result that at the
17 present time less than 2 percent of the Nation's entire
18 forested area can be properly said to constitute ancient
19 forest stands.

20 (12) The policy of the United States Forest Serv-
21 ice and the Bureau of Land Management, in particular,
22 has been to encourage the establishment of a wood
23 products industry in areas adjacent to the national for-
24 ests or Bureau of Land Management lands, for the pur-
25 pose of logging the ancient forest resource.

1 (13) At the present rate of logging of the ancient
2 forests remaining under the jurisdiction of the United
3 States of America, it is anticipated that nearly all of
4 the ecologically significant forests will be destroyed
5 within the next decade.

6 (14) Many predictions are that the rate of timber
7 cutting in the Northwest States must be reduced sub-
8 stantially if timber cutting is to be practiced on a non-
9 declining, even flow, sustained yield basis while pre-
10 serving and protecting biological diversity, ancient
11 forest, and wildlife habitat.

12 (15) The continued logging of ancient and old
13 growth forests and their conversion to younger tree
14 plantations has over the past century added tremen-
15 dous quantities of carbon to the world's atmosphere,
16 with adverse consequences for the global climate, in-
17 cluding the process known as "global warming".

18 (16) It is not appropriate for the Government of
19 the United States to urge other countries, particularly
20 those with tropical forest areas, not to cut too quickly
21 or liquidate their own forests, while at the same time
22 pursuing a policy of maximum liquidation of its own
23 ancient forests.

1 **SEC. 3. DEFINITIONS.**

2 For the purposes of this Act, the following definitions
3 apply:

4 (1) **ANCIENT FOREST.**—The term “ancient
5 forest” means any significant tract of Federal forest
6 land which—

7 (A) is referred to as “Old-Growth Timber”
8 on pages 3–40 through 3–42 of the document of
9 the Pacific Northwest Region of the Forest Serv-
10 ice entitled “Regional Guide for the Pacific
11 Northwest Region”, dated May 1984;

12 (B) contains that species known as “Coast
13 Redwood”, as defined in the document entitled
14 “Potential Natural Vegetation of the United
15 States”, authored by A.W. Kuchler (), and
16 known as “Type K-6”;

17 (C) contains any of the forest types defined
18 as “suitable spotted owl habitat, Wenatchee, Gif-
19 ford Pinchot, and Siskiyou National Forests” in
20 the Final Spotted Owl Environmental Impact
21 Statement, United States Forest Service; or

22 (D) is comprised of any naturally occurring
23 forest association which—

24 (i) meets the definition of old-growth red
25 fir, mixed conifer, eastside pine, or ponderosa
26 pine forest in those documents of the United

1 States Department of Agriculture entitled
 2 "Interim Definitions for Old Growth Douglas
 3 Fir and Mixed Conifer Forests in the Pacific
 4 Northwest and California", "Old Growth
 5 Definitions for Eastside Pine Stands", "Old
 6 Growth Definitions for Mixed Conifer and
 7 Ponderosa Pine Cover Types", or "Draft
 8 Guidelines Defining Old Growth Red Fir
 9 Forests in the Central and Southern Sierra
 10 of California", or

11 (ii) meets the definition of a "late seral,
 12 undisturbed, self-reproducing" forest commu-
 13 nity as described in the document of the
 14 United States Department of Agriculture en-
 15 titled "Ecological Types for the Westside
 16 Mixed Conifer Ecosystem, Plumas, Lassen
 17 and Tahoe National Forests", the document
 18 entitled "Plant Communities: A Handbook of
 19 Plant Synecology" (New York, Harper &
 20 Row, 1968), or the document entitled
 21 "Forest Ecology" (New York, MacMillan,
 22 1987).

23 (2) ASSOCIATED FOREST.—The term "associated
 24 forest" means those lands adjacent to, proximate to, or

1 contiguous with any tract of ancient forest which are
2 sufficient in size, extent, location, or configuration to—

3 (A) assist in the maintenance, protection, or
4 perpetuation of the natural ecological elements,
5 structure, and function of ancient forests or pro-
6 tection of ancient forests from edge effect, wind-
7 throw, fire, flood, landslide, or other natural or
8 manmade events;

9 (B) permit species of plants, fish, or wildlife
10 which are associated with, or wholly or in part
11 dependent upon, the survival of ancient forests for
12 food, water, cover, or other nutritional and other
13 physiological requirements, or for migrating, re-
14 producing, rearing offspring, dispersing, or seeking
15 protection from predators and the elements; or

16 (C) to the extent possible, interconnect on a
17 forest by forest or district by district basis ancient
18 forests into an ecologically diverse and sustainable
19 network.

20 (3) **FEDERAL FOREST LAND.**—The term “Federal
21 Forest land” means any lands in Federal ownership
22 and managed—

23 (A) by the Forest Service within the exterior
24 boundaries of a national forest in the State of
25 Washington or Oregon or in one of the following

1 national forests or portions thereof in the State of
2 California: Rogue River National Forest, Siskiyou
3 National Forest, Six Rivers National Forest,
4 Klamath National Forest, Shasta-Trinity National
5 Forest, Mendocino National Forest, Modoc Na-
6 tional Forest, Lassen National Forest, Stanislaus
7 National Forest, Eldorado National Forest,
8 Plumas National Forest, Tahoe National Forest,
9 Lake Tahoe Basin Management Unit, Sierra Na-
10 tional Forest, and Sequoia National Forest; or

11 (B) by the Bureau of Land Management in
12 the State of Washington or Oregon or in the fol-
13 lowing districts of the Bureau of Land Manage-
14 ment in the State of California: Susansville,
15 Ukiah, and Bakersfield.

16 (4) **SYSTEM.**—The term “system” means the Na-
17 tional Ancient Forest Reserve System established by
18 section 4.

19 **SEC. 4. NATIONAL ANCIENT FOREST RESERVE SYSTEM.**

20 (a) **ESTABLISHMENT.**—In order that future generations
21 of Americans may continue to enjoy the benefits of an endur-
22 ing ancient forest resource, there is hereby established the
23 National Ancient Forest Reserve System. The system shall
24 consist of those units designated as components by section 5.

1 (b) **MANAGEMENT AND PROTECTION.**—(1) The units of
2 the system that are located either within the exterior bound-
3 aries of a national forest or within the exterior boundaries of
4 a district of the Bureau of Land Management shall be man-
5 aged by the Secretary of Agriculture or the Secretary of the
6 Interior, as appropriate, in accordance with this Act and with
7 the laws generally applicable to the area within which any
8 such unit is located.

9 (2)(A) The respective Secretary shall manage the units
10 of the system in such a manner as to perpetuate, protect, and
11 conserve the ancient forest structure, natural ecological ele-
12 ments and functions, and successional processes within them.

13 (B) Within any unit of the system, the respective Secre-
14 tary may not (i) build roads, (ii) prepare, advertise, offer,
15 award, or operate timber sales, or (iii) cut or remove trees,
16 alive or dead, for any purpose, except where necessary to
17 clear fallen trees in order to permit reasonable travel on trails
18 or existing roads located within any unit.

19 (C) Because the periodic occurrence of fire is a natural
20 mechanism of the ancient forest ecosystem, the respective
21 Secretary may not undertake any fire suppression activity
22 within a unit of the system except where necessary to protect
23 human life or property within any such unit or immediately
24 adjacent to it.

1 (c) MINING AND LAND DISPOSAL.—Subject to valid ex-
2 isting rights, the Federal lands within each unit of the system
3 are withdrawn from all forms of entry, appropriation, and
4 disposal under the public land laws and from location, entry,
5 and patent or lease under the mining laws, mineral leasing
6 laws, and geothermal leasing laws of the United States.

7 (d) SUPPRESSION AND CONTROL PROGRAMS.—(1) The
8 respective Secretary may not conduct suppression or control
9 programs for native insects, plants, or diseases within any
10 unit of the system.

11 (2) The respective Secretary may conduct suppression
12 and eradication programs for non-native insects, plants, and
13 diseases within a unit of the system only after making a de-
14 termination of the feasibility of success and need for such
15 actions in a process that complies with all requirements of
16 the National Environmental Policy Act of 1969 and all other
17 applicable statutes and treaties.

18 SEC. 5. DESIGNATION OF UNITS OF NATIONAL ANCIENT
19 FOREST RESERVE SYSTEM AND OTHER PRO-
20 TECTED AREAS.

21 (a) DESIGNATION.—The following areas are hereby
22 designated as components of the National Ancient Forest Re-
23 serve System:

24 (1) Certain lands in the State of California in the
25 National Forest which comprise approximately

12

1 acres as generally depicted on a map entitled
 2 " Ancient Forest—Proposed" dated ,
 3 199 , which shall be known as the Ancient
 4 Forest.

5 (2) Certain lands in the State of California in the
 6 district of the Bureau of Land Management
 7 which comprise approximately acres as generally
 8 depicted on a map entitled " Ancient Forest—
 9 Proposed" dated , 199 , which shall be known
 10 as the Ancient Forest.

11 (3) Certain lands in the State of Oregon in the
 12 National Forest which comprise approximately
 13 acres as generally depicted on a map entitled
 14 " Ancient Forest—Proposed" dated ,
 15 199 , which shall be known as the Ancient
 16 Forest.

17 (4) Certain lands in the State of Oregon in the
 18 district of the Bureau of Land Management
 19 which comprise approximately acres as generally
 20 depicted on a map entitled " Ancient Forest—
 21 Proposed" dated , 199 , which shall be known
 22 as the Ancient Forest.

23 (5) Certain lands in the State of Washington in
 24 the National Forest which comprise approxi-
 25 mately acres as generally depicted on a map enti-

1 tled " Ancient Forest—Proposed" dated
 2 , 199 , which shall be known as the
 3 Ancient Forest.

4 (6) Certain lands in the State of Washington in
 5 the district of the Bureau of Land Manage-
 6 ment which comprise approximately acres as gen-
 7 erally depicted on a map entitled " Ancient
 8 Forest—Proposed" dated , 199 , which shall
 9 be known as the Ancient Forest.

10 (b) MAPS AND LEGAL DESCRIPTION.—As soon as
 11 practicable after the designation of a component of the
 12 system by subsection (a), the Secretary shall file a map and a
 13 legal description of that component with the appropriate
 14 committees of Congress. Such map and description shall have
 15 the same force and effect as if included in this Act, except
 16 that correction of clerical and typographical errors in such
 17 legal description and map may be made. Such map and legal
 18 description shall be on file and available for public inspection
 19 in the offices of the administering agency.

20 SEC. 6. INTERIM PROTECTION OF ANCIENT FOREST AND AS-
 21 SOCIATED FOREST.

22 (a) IN GENERAL.—Until otherwise provided by law en-
 23 acted after the date of enactment of this Act, all Federal
 24 forest lands in the States of Washington, Oregon, and Cali-
 25 fornia which qualify as ancient forest or associated forest but

1 are not designated as a component of the system by section 5
2 shall be managed in accordance with section 4(b).

3 (b) DESIGNATION.—Not later than 45 days after the
4 date of enactment of this Act, the Secretary of Agriculture
5 and the Secretary of the Interior with respect to lands under
6 their jurisdictions shall issue findings and publish maps designating those Federal forest lands in the States of Washington, Oregon, and California that are subject to subsection (a).

9 (c) COMMERCIAL TIMBER.—The Secretary of Agriculture and the Secretary of the Interior with respect to lands
10 under their jurisdictions shall issue all necessary administrative orders or regulations—
11
12

13 (1) removing the volume of any commercial
14 timber within any area designated for interim protection under this section from any determination of
15 timber available for commercial harvest; and
16

17 (2) requiring the Forest Service and the Bureau of
18 Land Management to reduce their annual timber sale offerings by an amount equal to the volume of commercially harvestable timber determined before the date of
19 enactment of this Act to have been otherwise available
20 within the designated units.
21
22

23 (d) AGENCY MANAGEMENT ACTIVITY; FINDINGS.—
24 Before undertaking any action that may result in the cutting
25 or removal of any vegetation or any other alteration of any

1 other characteristic of or within any lands designated for in-
2 terim protection under this section, the respective Secretary
3 shall make a finding that the proposed action does not violate
4 this Act. Each such finding shall be accompanied by reasona-
5 ble supporting scientific evidence and shall be published in
6 the Federal Register. The Secretary shall allow an adequate
7 period for public comment before the action is undertaken.
8 No such action may be commenced before the end of the 60-
9 day period beginning on the day that public notice regarding
10 such action is issued.

11 (e) RELEASE.—Upon the enactment of a law by the
12 Congress which designates, on a forest by forest or district by
13 district basis, detailed boundaries of tracts of ancient forest or
14 associated ancient forest in the same manner as the tracts
15 permanently designated under section 5 of this Act, this sec-
16 tion shall no longer apply to any lands of that forest or dis-
17 trict not so designated. Those lands not so designated as
18 units of the system thereafter shall be managed in accordance
19 with the Endangered Species Act of 1973, the Forest and
20 Rangeland Renewable Resources Planning Act of 1974, the
21 National Forest Management Act of 1976, the Federal Land
22 Policy and Management Act of 1976, the Federal Water Pol-
23 lution Control Act, and all other applicable laws and treaties.

1 **SEC. 7. PERPETUATION OF ANCIENT FOREST SYSTEM; STUDY.**

2 (a) **NEED FOR STUDY.**—The Congress finds that the an-
3 cient forest, and its associated wildlife and plant life, depends
4 greatly for its survival upon surrounding or connecting forest
5 for the purpose of providing corridors for dispersal, migration,
6 mixing of populations to ensure retention of genetic diversity,
7 reproduction, cover, water quality, and survival of fish and
8 wildlife species. Such surrounding or connecting forest must
9 be sufficient in size, location, and configuration to protect or
10 restore the ancient forest from the effects of logging, wind-
11 throw, fire, or other manmade or natural event.

12 (b) **POLICY.**—The Congress, therefore, declares that, it
13 being the goal of this Act to assure the existence and survival
14 of an enduring resource of ancient forest in perpetuity for the
15 benefit of the American people, it is the policy of the United
16 States to develop and utilize the best scientific information
17 and knowledge for the purposes of further study and identifi-
18 cation of the biological and ecological requirements of ancient
19 forest ecosystems.

20 (c) **INITIAL INVESTIGATION.**—The Chairman of the
21 Council on Environmental Quality, in cooperation with ap-
22 propriate agencies and interested parties, shall convene a
23 panel of experts from universities and government and pri-
24 vate research and scientific organizations for the purpose of
25 initiating, overseeing, and publishing a study to determine

1 the biological and physical requirements for the survival and
2 perpetual existence of ancient forest ecosystems.

3 (d) REPORT.—Not later than January 31, 1992, the
4 Chairman of the Council on Environmental Quality shall
5 submit to the appropriate committees of the Congress a
6 report regarding such study, complete with recommendations
7 and maps as appropriate. Such recommendations shall in-
8 clude (but not be limited to) the exact extent and location of
9 additional corridors, buffer zones, restoration areas, and other
10 aspects of associated forest, as necessary, to carry out the
11 purposes of this Act.

12 SEC. 8. OVERSIGHT AND REVIEW.

13 (a) BURDEN OF PROOF.—In any action relating to in-
14 terim protection under section 6, the burden of proof shall be
15 on the United States to establish by clear and convincing
16 evidence that the decisions and actions of the Secretary of
17 Agriculture or the Secretary of the Interior are consistent
18 with this Act.

19 (b) INTERIM PROTECTION PENDING APPEAL.—(1) If
20 an appeal of a decision is made to an agency to enforce the
21 interim protection requirements of section 6 with respect to
22 an area, the Secretary concerned shall provide interim pro-
23 tection to that area in accordance with section 6 until the
24 issuance of a final decision by the agency regarding that
25 appeal.

1 (2) In the case of any such final decision by an agency
2 upholding the decisions or actions of the Secretary con-
3 cerned, the Secretary shall provide interim protection to the
4 area concerned in accordance with section 6 until after the
5 nonprevailing parties have had an opportunity for a hearing
6 before the appropriate Federal district court, and thereafter
7 until such time as an appellant has had an opportunity for
8 appellate review of that district court decision.

102D CONGRESS
1ST SESSION

H. R. 1309

To assure stability of communities dependent on outputs of timber and other resources from national forests and public lands, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 1991

Mr. SMITH of Oregon (for himself, Mr. STENHOLM, Mr. YOUNG of Alaska, Mr. MARLENEE, Mr. EMERSON, Mr. HERGER, Mr. MORRISON, and Mrs. VUCANOVICH) introduced the following bill; which was referred jointly to the Committees on Agriculture and Interior and Insular Affairs

A BILL

To assure stability of communities dependent on outputs of timber and other resources from national forests and public lands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be known as the "Community Stability
5 Act of 1991".

6 SEC. 2. DEFINITIONS.

7 As used in this Act:

8 (1) The term "resource-dependent", when used
9 in conjunction with "community", means a commu-

1 nity whose economy, in terms of private employment,
2 public revenues and other relevant factors, is sub-
3 stantially dependent on outputs or resources of a na-
4 tional forest or unit of public lands, or combination
5 of such forests or units.

6 (2) The term "community", when used in con-
7 junction with "resource-dependent", means a local
8 governmental unit of general jurisdiction that is rec-
9 ognized by the State in which it is located.

10 (3) The term "Secretary" means the Secretary
11 of Agriculture with regard to national forest lands
12 and the Secretary of the Interior with regard to pub-
13 lic lands under his jurisdiction.

14 **SEC. 3. POLICY.**

15 It is the policy of the Congress that national forests
16 and public lands of the United States be managed and
17 utilized in such a manner as to not—

18 (1) create instability in the resource-dependent
19 communities associated with each particular national
20 forest or unit of public land;

21 (2) create barriers to access to any area of the
22 national forests or public lands by persons who are
23 disabled or limited in personal mobility by reason of
24 age; or

3

1 (3) create disadvantages to minority groups
2 through reduction of employment, housing, or career
3 opportunities.

4 **SEC. 4. PLANNING.**

5 The Secretaries shall assure that in order to achieve
6 the policy of section 3, planning required by law for each
7 national forest and unit of public land under their respec-
8 tive jurisdictions shall satisfy the following additional re-
9 quirements:

10 (1) A community assessment for each affected
11 resource-dependent community shall be prepared
12 and published prior to the preparation and publica-
13 tion of draft alternative plans (including plan
14 amendments or plan revisions) for the particular na-
15 tional forest or unit of public land. This community
16 assessment shall document and analyze the nature
17 and extent of community dependence on the national
18 forest or unit of public land in terms of—

19 (A) available and achieved outputs for tim-
20 ber, mining, livestock, motorized and non-mo-
21 torized recreation, and other community-related
22 uses;

23 (B) community and market demands and
24 capabilities;

25 (C) employment;

4

- 1 (D) local government receipts; and
2 (E) other relevant economic, social and en-
3 vironmental factors.

4 Such a community assessment shall cover at least
5 the previous 10 years and the present.

6 (2) After completion of the community assess-
7 ments and prior to the publication of draft alter-
8 native plans, there shall be established for each na-
9 tional forest or unit of public land a minimum man-
10 agement requirement for timber, mining, livestock,
11 motorized and non-motorized recreation, and other
12 community-related outputs sufficient to assure suc-
13 cessful achievement of the policy established in sec-
14 tion 3 throughout the maximum period that the
15 pending plan will be in effect.

16 (3) The justification for the selection of a pre-
17 ferred draft alternative and of a final plan must in-
18 clude analysis of the impacts on community stability
19 in light of the policy of section 3 and the relevant
20 community assessments.

21 (4) When any plan reduces a commodity output
22 more than 4 percent below the average output of the
23 5 years preceding the year in which the plan is
24 adopted, the Secretary shall defer full implementa-
25 tion of that output reduction for a sufficient time so

1 that the reduction in output under the plan in com-
2 parison to the average output of the 5 years preced-
3 ing the year in which the plan is adopted is no
4 greater than 4 percent per year.

5 (5) Each such community assessment plan shall
6 detail how the agency has maximized opportunities
7 for those groups identified in section 3.

8 **SEC. 5. REPORTS.**

9 (a) **ANNUAL REPORT.**—The Secretaries shall report
10 annually to the Congress concerning the steps they have
11 taken to achieve the policy of section 3 and their success
12 in achieving that policy.

13 (b) **EVALUATIONS.**—During the 4th and 7th years in
14 effect of each final management plan for a national forest
15 or unit of public land, the Secretary shall prepare and
16 publish an evaluation of whether the plan has achieved the
17 policy of section 3, and, if it has not, why it has not. Such
18 reports shall include such updatings of community assess-
19 ments as is appropriate.

20 **SEC. 6. REGULATIONS.**

21 The Secretaries shall promulgate within 9 months
22 after the date of enactment of this Act such regulations
23 as are necessary to implement this Act, including jointly
24 developed regulations further defining “resource-depend-

1 ent community" and establishing procedures for the prep-
2 aration of community assessments.

3 **SEC. 7. EFFECTIVE DATE.**

4 Except as provided in section 6, this Act shall take
5 effect January 1, 1992. The provisions of section 4 shall
6 be implemented with the first amendment or revision of
7 a land use management plan begun after January 1, 1992.

102D CONGRESS
1ST SESSION

H. R. 1590

To provide for designation by the Secretary of the Interior and the Secretary of Agriculture of an ancient forest reserve system, including lands managed by the Bureau of Land Management and portions of national forests established by reservations from the public domain; to require the Secretary of the Interior and the Secretary of Agriculture to enhance economic stability in the Pacific Northwest; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 1991

Mr. VENTO (for himself, Mr. UDALL, Mr. KOSTMAYER, Mr. DE LUGO, Mr. RAHALL, Mrs. BYRON, Mr. DARDEN, Mr. VISCLOSKY, Mr. OWENS of Utah, Mr. LEWIS of Georgia, Mr. HOAGLAND, Mr. BLAZ, Mr. McDERMOTT, Mr. BONIOR, Mr. BEILENSEN, Mr. PEASE, Ms. NORTON, Mr. LANCASTER, Mr. GUARINI, Mr. WEISS, and Mr. BERNUTER) introduced the following bill; which was referred jointly to the Committees on Agriculture, Interior and Insular Affairs and Education and Labor

A BILL

To provide for designation by the Secretary of the Interior and the Secretary of Agriculture of an ancient forest reserve system, including lands managed by the Bureau of Land Management and portions of national forests established by reservations from the public domain; to require the Secretary of the Interior and the Secretary of Agriculture to enhance economic stability in the Pacific Northwest; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Ancient Forest Act
5 of 1991".

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) examples of old growth forest ecosystems
9 are rapidly disappearing from the public lands ad-
10 ministered by the Bureau of Land Management and
11 from national forest lands;

12 (2) the old growth forest ecosystems of Federal
13 lands of the Pacific Northwest are of unique impor-
14 tance to the Nation, and the northern spotted owl is
15 an indicator of the condition of these ecosystems;

16 (3) significant scientific evaluation and rec-
17 ommendations for protecting and preserving the
18 northern spotted owl are found in the report to the
19 Secretary of the Interior and the Secretary of Agri-
20 culture of the Interagency Scientific Committee to
21 Address the Conservation of the Northern Spotted
22 Owl, dated April 12, 1990;

23 (4) the Nation needs land use policies which re-
24 quire the regeneration of old growth forest
25 ecosystems;

3

1 (5) certain timber dependent rural communities
2 in the Pacific Northwest need economic assistance to
3 become less timber dependent;

4 (6) old growth forest ecosystems help protect
5 the global environment by preserving biological di-
6 versity, slowing atmospheric change, and providing a
7 scientific benchmark for monitoring the health of the
8 planet; and

9 (7) the economy of the Pacific Northwest re-
10 quires a stable and certain supply of timber, and
11 timber products from old growth forests on public
12 lands and national forests currently play an impor-
13 tant role in this economy.

14 **SEC. 3. PURPOSES.**

15 The purposes of this Act are as follows:

16 (1) To provide for management of certain Fed-
17 eral lands by the Secretary of the Interior and the
18 Secretary of Agriculture to assure protection in per-
19 petuity of a resource of old growth forest ecosystems
20 for the use, enjoyment, and recreation of the Amer-
21 ican people.

22 (2) To ensure the viability and recovery of the
23 northern spotted owl as well as the viability of other
24 species of plants and animals dependent on or asso-
25 ciated with old growth forest ecosystems.

1 (3) To provide a stable supply of timber from
2 Federal lands to help maintain the economy of the
3 Pacific Northwest.

4 (4) To provide assistance in promoting eco-
5 nomic diversification and stability in rural commu-
6 nities impacted by a declining timber supply, includ-
7 ing assistance to workers displaced by such decline.

8 **SEC. 4. DEFINITIONS.**

9 For purposes of this Act:

10 (1) The terms "Secretary" and "Secretaries"
11 means the Secretary of the Interior in the case of
12 lands under the administrative jurisdiction of the
13 Bureau of Land Management and the Secretary of
14 Agriculture in the case of National Forest System
15 lands.

16 (2) The term "Oregon and California Lands"
17 means those lands administered by the Bureau of
18 Land Management that are identified by the Act of
19 August 28, 1937 (43 U.S.C. 1181f).

20 (3) The term "Ancient Forest Reserves" means
21 the Pacific Northwest Ancient Forest Reserve Sys-
22 tem designated under section 5(a) of this Act.

23 (4) The term "Ancient Forest Scientific Com-
24 mittee" means the committee established under sec-
25 tion 9 of this Act.

1 (5) The term "Douglas-fir Region" means—

2 (A) Federal lands that are included within
3 the following 17 National Forests in Oregon,
4 Washington and Northern California: Olympic,
5 Mt. Baker-Snoqualmie, Wenatchee, Okanogan,
6 Gifford Pinchot, Mt. Hood, Siuslaw, Willam-
7 ette, Deschutes, Umpqua, Rogue River,
8 Siskiyou, Winema, Klamath, Six Rivers, Shas-
9 ta-Trinity, and Mendocino; and

10 (B) Federal lands that are included within
11 the following 6 Bureau of Land Management
12 administrative districts in Oregon and Northern
13 California: Salem, Eugene, Roseburg, Medford,
14 Coos Bay, and Ukiah.

15 (6) The term "habitat conservation areas"
16 means those areas identified as such in the report of
17 the Interagency Scientific Committee entitled "A
18 Conservation Strategy for the Northern Spotted
19 Owl" and dated April 12, 1990.

20 (7) The term "Interagency Scientific Commit-
21 tee" means the Scientific Committee to Address the
22 Conservation of the Northern Spotted Owl, as iden-
23 tified in the report entitled "A Conservation Strat-
24 egy for the Northern Spotted Owl" and dated April
25 12, 1990.

1 (8) The term "New Forestry Principles" means
2 those forestry techniques defined and periodically re-
3 fined as the New Forestry Principles by the Ancient
4 Forest Scientific Committee pursuant to section 9 of
5 this Act.

6 (9) The term "old growth forest ecosystem"
7 shall refer generally to natural forests of high struc-
8 tural and compositional diversity, and specifically
9 shall be defined by the Ancient Forest Committee,
10 taking into account available scientific literature and
11 criteria in this Act.

12 **SEC. 5. PACIFIC NORTHWEST ANCIENT FOREST RESERVE**
13 **SYSTEM.**

14 (a) DESIGNATION OF PACIFIC NORTHWEST ANCIENT
15 FOREST RESERVE SYSTEM.—Within 3 years after the
16 date of enactment of this Act, the Secretary of Agriculture
17 and the Secretary of the Interior shall designate and re-
18 serve lands for a Pacific Northwest Ancient Forest Re-
19 serve System consisting of Federal lands in the Douglas-
20 fir Region containing approximately 5,660,000 acres on
21 national forest lands and approximately 660,000 acres on
22 public lands administered by the Bureau of Land Manage-
23 ment, which may include lands already designated, with-
24 drawn, or reserved for other purposes, including wilder-
25 ness. Designation pursuant to this subsection shall be in

1 addition to, and not in lieu of, such other prior des-
2 ignation, withdrawal, or reservation.

3 (b) PURPOSES.—The purposes of the Ancient Forest
4 Reserves are to protect for the benefit of present and fu-
5 ture generations of Americans the ecological, environ-
6 mental, aesthetic, and recreational values of old growth
7 forest ecosystems on Bureau of Land Management and
8 national forest lands in the Douglas-fir Region and to re-
9 generate such ecosystems where they once occurred within
10 the Ancient Forest Reserve System.

11 (c) CRITERIA.—The Ancient Forest Reserves shall be
12 designated based on the following criteria:

13 (1) The Ancient Forest Reserves shall include
14 lands needed for the viability and recovery of north-
15 ern spotted owl populations. The Secretaries shall
16 consider, as a starting point, but not be limited to,
17 the habitat conservation areas recommended by the
18 Interagency Scientific Committee.

19 (2) The Ancient Forest Reserves shall include
20 old growth forest ecosystems in stands of sufficient
21 quantity and distribution over the landscape to pro-
22 tect, maintain and replace old growth forest func-
23 tions, including the perpetuation of biological diver-
24 sity, water quality, recreation, and long-term forest
25 productivity.

1 (3) The Ancient Forest Reserves shall include a
2 significant amount of low elevation old growth forest
3 ecosystems.

4 (4) The Ancient Forest Reserves shall be well
5 distributed geographically through the Douglas-fir
6 Region.

7 (5) The Ancient Forest Reserves may include
8 some lands that are not currently old growth forest
9 ecosystems if they can be managed to regenerate old
10 growth forest ecosystems or to provide connectors
11 between remaining old growth forest ecosystems.

12 (6) The Ancient Forest Reserves shall include
13 no less than the same amount of acres of old growth
14 forest ecosystems as are found in the habitat con-
15 servation areas on the date of enactment of this Act.

16 (7) The Ancient Forest Reserves shall include
17 at least 50 percent of the old growth forest
18 ecosystems as found on the date of enactment of this
19 Act in the Douglas-fir Region and that are outside
20 of congressionally designated areas, such as wilder-
21 ness areas and wild and scenic rivers where commer-
22 cial timber sales are prohibited.

23 (8) The Secretaries shall consider the rec-
24 ommendations of the Ancient Forest Scientific Com-
25 mittee pursuant to section 9.

1 (9) The Secretaries shall consider lands that
2 minimize the impacts on Federal timber supply, but
3 only if consistent with the purposes of the Ancient
4 Forest Reserves and the criteria of this subsection.

5 (d) PROCESS OF ADJUSTMENTS.—The Secretaries
6 may, as part of their regular land management planning
7 process, recommend adjustments of the boundaries of the
8 Ancient Forest Reserves only if such recommendations are
9 consistent with subsections (b) and (c) and comply with
10 each of the following requirements:

11 (1) The adjustment recommendation shall be
12 preceded by public involvement as provided in the
13 land management planning process.

14 (2) This recommendation shall maintain ap-
15 proximately the acreage established by this section.

16 (3) The recommendation shall be reviewed by
17 the Ancient Forest Scientific Committee, which shall
18 produce a report commenting on the re-
19 ommendation before it is forwarded to Congress.
20 The Ancient Forest Scientific Committee may also
21 make recommendations for adjustments on its own
22 initiative to the Secretaries.

23 (4) The recommended adjustments, together
24 with the report of the Ancient Forest Scientific
25 Committee shall be submitted to the Committees on

1 Interior and Insular Affairs and Agriculture of the
2 House of Representatives and to the Committees on
3 Energy and Natural Resources and Agriculture of
4 the Senate. No adjustment of any boundary of any
5 Ancient Forest Reserve shall occur unless made by
6 Act of Congress, except that technical and clerical
7 corrections can be made.

8 **SEC. 6. MANAGEMENT OF THE PACIFIC NORTHWEST AN-**
9 **CIENT FOREST RESERVE SYSTEM.**

10 The following shall apply to lands designated as An-
11 cient Forest Reserves:

12 (1) No removal of vegetation shall be allowed
13 except for the purposes of public safety, recreation,
14 and administration.

15 (2) Effective upon the designation of the An-
16 cient Forest Reserves and subject to valid existing
17 rights, Federal lands within the Ancient Forest Re-
18 serves are withdrawn from disposition under the
19 public land laws and from location, entry, and pat-
20 ent under the mining laws of the United States,
21 from the operation of the mineral leasing laws of the
22 United States and from operation of the Geothermal
23 Steam Act of 1970.

24 (3) Except as prohibited or restricted by appli-
25 cable law or previous designation of lands as wilder-

1 ness or otherwise, roads, structures, and motorized
2 and nonmotorized recreation and access may be per-
3 mitted within the Ancient Forest Reserves where
4 compatible with the protection of old growth forest
5 ecosystems and where consistent with the purposes
6 of the Ancient Forest Reserves as specified in sec-
7 tion 5. The Ancient Forest Scientific Committee
8 shall recommend to the Secretaries criteria for man-
9 aging and regulating such uses.

10 (4) The Secretary shall permit hunting, fishing,
11 and trapping on lands and waters within the Ancient
12 Forest Reserves in accordance with applicable Fed-
13 eral and State laws, except that the Secretary may
14 designate areas where, and establish periods when,
15 no hunting, fishing, or trapping will be permitted for
16 reasons of public safety, administration, or compli-
17 ance with provisions of applicable law. Except in
18 emergencies, regulations closing areas to hunting,
19 fishing, or trapping pursuant to this subsection shall
20 be put into effect only after consultation with the
21 appropriate State agency having responsibility for
22 fish and wildlife. Nothing in this Act shall be con-
23 strued as affecting the jurisdiction or responsibilities
24 of the States with respect to fish and wildlife on
25 Federal lands and waters covered by this Act.

1 (5) Areas within the Ancient Forest Reserves
2 not meeting the definition of old growth forest
3 ecosystems, as defined under this Act, or affected by
4 fire or other natural causes, shall be managed to re-
5 generate old growth forest ecosystems.

6 **SEC. 7. OLD GROWTH FOREST ECOSYSTEMS OUTSIDE THE**
7 **ANCIENT FOREST RESERVES.**

8 Any timber harvest (including salvage harvest) in an
9 area of an old growth forest ecosystem which is outside
10 of the Ancient Forest Reserves but within the Douglas-
11 fir Region shall be managed using the techniques de-
12 scribed under New Forestry Principles. These techniques
13 shall include (but not be limited to)—

14 (1) managing for ecosystems and multiple re-
15 sources rather than for individual resources;

16 (2) allowing for a high level of structural and
17 compositional diversity in managed stands; and

18 (3) avoiding forest fragmentation.

19 The New Forestry Principles shall be implemented no
20 later than 3 years after the date of enactment of this Act.

21 **SEC. 8. ANCIENT FOREST RESEARCH PROGRAM.**

22 (a) **ESTABLISHMENT OF RESEARCH PROGRAM.**—The
23 Secretary of Agriculture and the Secretary of the Interior
24 shall, within 3 years after the date of enactment of this
25 Act, establish an Ancient Forest Research Program.

1 (b) **PURPOSES OF PROGRAM.**—The purposes of the
2 research program established under this section shall in-
3 clude (but not be limited to) each of the following:

4 (1) Basic research on old growth forest
5 ecosystems, their processes, and species dependent
6 on them.

7 (2) The development and testing of ecologically
8 and hydrologically sensitive forest management prac-
9 tices at the stand and landscape levels.

10 (3) Analysis of the socioeconomic impacts of
11 these practices.

12 (4) The integration of recreational, fish and
13 wildlife, aesthetic, and ecological uses of old growth
14 forest ecosystems with commodity uses of these
15 ecosystems.

16 (5) The feasibility of supplying the economy
17 with old growth forest products on a sustained basis
18 and the methods to accomplish this objective.

19 (6) Techniques for regenerating old growth for-
20 est ecosystems.

21 **SEC. 9. THE ANCIENT FOREST SCIENTIFIC COMMITTEE.**

22 (a) **ESTABLISHMENT.**—The President shall establish
23 a permanent 11-person Ancient Forest Scientific Commit-
24 tee (hereafter in this section referred to as the “commit-
25 tee”) within 6 months after the date of enactment of this

1 Act. The committee shall consist of the following members
2 to be appointed by the President from a list of candidates
3 to be developed and submitted to the President by the Na-
4 tional Academy of Sciences:

5 (1) 1 forest ecologist, appointed to serve as
6 chairperson.

7 (2) 3 forest ecologists with expertise on Doug-
8 las-fir Region old growth forest ecosystems.

9 (3) 2 wildlife biologists, one of whom has exper-
10 tise on the northern spotted owl.

11 (4) 1 forest economist with expertise on the
12 economy of the Douglas-fir Region.

13 (5) 1 silviculturist with expertise on Douglas-fir
14 Region forests.

15 (6) 1 forest planner.

16 (7) 1 hydrologist with expertise on Douglas-fir
17 Region watersheds.

18 (8) 1 fisheries biologist with expertise on Doug-
19 las-fir Region fisheries.

20 Each member shall be a recognized expert in the field for
21 which the member is considered for appointment and shall
22 be free of economic conflict of interest with regard to the
23 subject of this Act. The list of candidates provided by the
24 National Academy of Sciences shall consist of at least
25 twice as many nominees in each category specified in this

1 section. Members of the committee shall serve for 4-year
2 terms and may be reappointed to additional terms.

3 (b) ADMINISTRATION OF COMMITTEE.—(1) Except
4 as provided in paragraph (2), members of the committee
5 shall each be paid at a rate not to exceed and consistent
6 with the rate paid to employees of the United States per-
7 forming similar duties and with similar qualifications for
8 each day (including travel time) during which they are en-
9 gaged in the actual performance of duties vested in the
10 committee. While away from their homes or regular places
11 of business in the performance of services for the commit-
12 tee, members of the committee shall be allowed travel ex-
13 penses, including per diem in lieu of subsistence, in the
14 same manner as persons employed intermittently in Gov-
15 ernment service are allowed expenses under section 5703
16 of title 5 of the United States Code.

17 (2) Other than reimbursement of expenses pursuant
18 to paragraph (1), members of the committee who are full-
19 time officers or employees of the United States shall re-
20 ceive no additional pay, allowances, or benefits by reason
21 of their service on the committee.

22 (3) Upon request of the committee, the head of any
23 Federal agency is authorized to provide facilities, equip-
24 ment, personnel, and other types of support to the com-

1 mittee to assist the committee in carrying out its duties
2 under this Act.

3 (c) REPORTS.—(1) Within 1 year after the date of
4 enactment of this Act, the committee shall submit a report
5 to the Secretaries containing a definition of old growth
6 forest ecosystems in the Douglas-fir Region.

7 (2) Within 2½ years after the date of enactment of
8 this Act, the committee shall submit a report to the Sec-
9 retaries containing recommendations for the Secretaries.
10 The report shall contain each of the following:

11 (A) A definition of old growth forest ecosystems
12 in the Douglas-fir Region.

13 (B) Recommendations on the management of
14 the Ancient Forest Reserves consistent with section
15 6.

16 (C) A definition of New Forestry Principles and
17 recommendations for their implementation in the
18 Douglas-fir Region based on the provisions of sec-
19 tion 7.

20 (D) Guidelines for the Ancient Forest Research
21 Program based on the provisions of section 8.

22 (E) Recommendations for the boundaries of the
23 Ancient Forest Reserves consistent with the provi-
24 sions of section 5.

1 (3) The reports under paragraphs (1) and (2) shall
2 also be submitted to the Committees on Interior and Insu-
3 lar Affairs and Agriculture of the House of Rep-
4 resentatives and to the Committees on Energy and Natu-
5 ral Resources and Agriculture of the Senate.

6 (d) PUBLIC INVOLVEMENT.—After receiving the com-
7 mittee's recommendations, but before implementing any of
8 these recommendations and before establishing the bound-
9 aries of the Ancient Forest Reserves, the Ancient Forest
10 Research Program, and the New Forestry Principles, the
11 Secretaries shall provide an adequate opportunity for pub-
12 lic involvement, including public hearings at appropriate
13 locations.

14 (e) EFFECT OF RECOMMENDATIONS.—Within 6
15 months after receipt of the recommendations of the com-
16 mittee, the respective Secretaries shall determine whether
17 or not to adopt the recommendations of the committee.
18 If the respective Secretaries fail to adopt any or all of the
19 recommendations, they shall provide written notice to
20 Congress of each deviation from the recommendations,
21 and reasons therefor, at least 30 days before designating
22 the Ancient Forest Reserves.

23 (f) CONTINUATION OF COMMITTEE.—After the An-
24 cient Forest Reserves are designated and the New For-
25 estry Principles and the Ancient Forest Research Program

1 are implemented, the committee shall review and advise
2 the Secretaries on the operations of these programs and
3 on any needed modifications and to review any agency pro-
4 posal for modifications.

5 (g) EXEMPTION.—The committee shall not be subject
6 to the Federal Advisory Committee Act (5 U.S.C. App.).

7 **SEC. 10. INTERIM MANAGEMENT.**

8 (a) NATIONAL FOREST TIMBER OFFER.—To the ex-
9 tent consistent with this Act and other applicable law, for
10 each of the fiscal years 1992 through 1994, the Secretary
11 of Agriculture shall offer at least 2,200,000,000 board feet
12 per year from national forest lands within the Douglas-
13 fir Region, consistent with the requirements of subsection
14 (c). To the extent consistent with this Act and other appli-
15 cable law, during this interim period, the timber sale pro-
16 gram for Region 6 of the Forest Service, which includes
17 part of the Douglas-fir Region, shall be at least
18 2,600,000,000 board feet per year, consistent with the re-
19 quirements of subsection (c).

20 (b) BLM TIMBER OFFER.—To the extent consistent
21 with this Act and other applicable law, for each of the
22 fiscal years 1992 through 1994, the Secretary of the Inte-
23 rior shall offer at least 450,000,000 board feet per year
24 from lands administered by the Bureau of Land Manage-

1 ment within the Douglas-fir Region, consistent with the
2 requirements of subsection (c).

3 (c) LIMITATIONS ON TIMBER SALES.—During the in-
4 terim period between the date of enactment of this Act
5 and the designation of the Ancient Forest Reserves, the
6 Secretaries shall follow the Interagency Scientific Commit-
7 tee's guidelines on tree diameter and canopy closure for
8 the forest land base outside of habitat conservation areas,
9 and no timber sale shall occur in the following:

10 (1) The habitat conservation areas rec-
11 ommended by the Interagency Scientific Committee,
12 except that the boundaries of such areas may be ad-
13 justed by the respective Secretary during this in-
14 terim period if such adjustments are in accordance
15 with other applicable law and the following require-
16 ments are met:

17 (A) The Interagency Scientific Committee
18 approves such adjustments as being consistent
19 with the intent of the guidelines in its report,
20 and

21 (B) an equivalent amount of acreage with
22 an equivalent amount of old growth forest
23 ecosystems is added by the appropriate Sec-
24 retary to the habitat conservation area system.

1 (2) All old growth forest lands, as defined by
2 the Forest Service for its planning purposes, which
3 are closed to commercial timber harvest by land and
4 resource management plans that are in effect during
5 this interim period.

6 (3) All old growth forest lands, as defined by
7 the Bureau of Land Management for its planning
8 purposes, which are closed to commercial timber
9 harvest by district plans that are in effect during
10 this interim period.

11 (4) All areas closed to timber harvest by the
12 Bureau of Land Management's December 22, 1987,
13 agreement with the Oregon Department of Fish and
14 Wildlife pertaining to the northern spotted owl.

15 (5) The following areas, as identified in maps
16 prepared by the Forest Service and dated July 1990:

17 (A) Siouxon Creek in the Gifford Pinchot
18 National Forest and consisting of approxi-
19 mately 6,500 acres.

20 (B) Bourbon Creek in the Gifford Pinchot
21 National Forest and consisting of approxi-
22 mately 1,700 acres.

23 (C) Areas with redwood trees in the
24 Siskiyou National Forest and consisting of ap-
25 proximately 300 acres.

1 (D) Elk River in the Siskiyou National
2 Forest and consisting of approximately 17,000
3 acres.

4 (E) North Kalmiopsis in the Siskiyou Na-
5 tional Forest and consisting of approximately
6 89,700 acres.

7 (F) Gene Creek-South Lake Chelan in the
8 Wenatchee National Forest and consisting of
9 approximately 25,600 acres.

10 (G) Opal Creek in the Willamette National
11 Forest and consisting of approximately 6,800
12 acres.

13 (H) White Chuck in the Mt. Baker-
14 Snoqualmie National Forest and consisting of
15 approximately 5,500 acres.

16 (I) Foggy Dew in the Okanogan National
17 Forest and consisting of approximately 21,100
18 acres.

19 (d) CONSISTENCY WITH LAND AND RESOURCE MAN-
20 AGEMENT PLANS.—Timber sales offered pursuant to this
21 section by the Secretaries shall be consistent with applica-
22 ble land and resource management plans.

23 (e) PART OF PLANS.—The requirements of this sec-
24 tion shall be incorporated as soon as practicable into the
25 applicable land and resource management plans. Such in-

1 corporation shall be considered nonsignificant for the pur-
2 poses of the National Environmental Protection Act of
3 1969, the Forest and Rangeland Renewable Resources
4 Planning Act of 1974, the National Forest Management
5 Act of 1976, and the Federal Land Policy and Manage-
6 ment Act of 1976 and shall be effective upon public notice.

7 (f) **TIMBER SALE PRIORITY.**—All timber sales
8 planned, prepared, or awarded during the interim protec-
9 tion period shall be ranked and prioritized by the Sec-
10 retaries from least ecological impact to higher impact con-
11 sidering stand size, structure, location, and past timber
12 harvest. The Forest Service and the Bureau of Land Man-
13 agement shall evaluate all commercial timber available
14 from lands not designated for interim protection according
15 to this criteria, and shall offer sales, from those lands,
16 of lowest impact first before offering sales of greater im-
17 pacts.

18 **SEC. 11. ECONOMIC ASSISTANCE TO RURAL COMMUNITIES.**

19 (a) **PAYMENTS FOR COUNTIES.**—Effective for the
20 first 5 fiscal years beginning on or after the date of enact-
21 ment of this Act, the term “50 percent” shall be sub-
22 stituted for the term “twenty-five per centum” for the
23 purposes of amounts paid under the Act of May 23, 1908,
24 and section 13 of the Act of March 1, 1911 (16 U.S.C.

1 500), with respect to national forests in the Douglas-fir
2 Region.

3 (b) OREGON AND CALIFORNIA LANDS.—In addition
4 to the 50 percent share provided by subsection (a) of the
5 first section of title II of the Act of August 28, 1937 (43
6 U.S.C. 1181f), for the first 5 fiscal years beginning on
7 or after the date of enactment of this Act, the 25 percent
8 amount of the Oregon and California land grant fund de-
9 scribed in subsection (b) of such section shall be paid to
10 the counties in the same manner as provided in such sub-
11 section (a).

12 (c) FOREST PRODUCTIVITY INITIATIVE.—The Sec-
13 retary of Agriculture, through the Forest Service's State
14 and private forestry programs, shall establish within one
15 year after the date of enactment of this Act a special ini-
16 tiative to improve the productivity on State, county, and
17 private lands in those counties that include lands that are
18 part of the Douglas-fir Region. The Forest Service shall
19 give hiring preference to workers from local communities
20 within such region for the purposes of such initiative. The
21 initiative shall include the following:

22 (1) Improved wood utilization through the
23 training of loggers, mill owners, and landowners on
more efficient harvesting methods.

1 (2) Improved wood utilization by sawmills by
2 providing assistance in implementing the latest lum-
3 ber production and drying technologies, for the pur-
4 pose of creating job opportunities.

5 (3) Improved wood utilization by plywood plants
6 and veneer mills through technical assistance to help
7 them convert to the latest technologies, for the pur-
8 pose of creating job opportunities.

9 (4) Timber stand improvement on non-Federal
10 forest lands.

11 (5) Tree planting on non-Federal forest lands.

12 (d) IMPROVEMENT OF CONDITION OF FEDERAL FOR-
13 EST LANDS.—The Secretaries shall establish within one
14 year after the date of enactment of this Act a program
15 to improve the condition of Federal forest lands in the
16 Douglas-fir Region. The Secretaries shall give hiring pref-
17 erence to workers from local communities within such re-
18 gion for the purposes of such program. The program shall
19 include—

20 (1) constructing recreational, tourism, and in-
21 terpretive facilities on such lands,

22 (2) improving commercial and recreational
23 fisheries,

24 (3) conducting natural resource inventories,

1 (4) reclaiming roads no longer needed for tim-
2 ber sales,

3 (5) implementing New Forestry Principles,

4 (6) constructing and maintaining administrative
5 facilities for the respective agencies,

6 (7) maintaining and constructing hiking trails,

7 (8) restoring and enhancing wildlife habitat,

8 (9) restoring and enhancing watershed and
9 water quality, and

10 (10) enhancing timber management programs.

11 (e) **FOREST COMMUNITY ASSISTANCE TASK**
12 **FORCE.**—The Secretaries shall establish within 6 months
13 after the date of enactment of this Act a community as-
14 sistance task force at the national level to oversee assist-
15 ance to rural communities in those counties that include
16 lands that are parts of the Douglas-fir Region. Any rural
17 community in the Douglas-fir Region that is impacted by
18 declining Federal timber sales can request assistance from
19 the national task force. The national task force shall do
20 the following:

21 (1) Establish local community task forces which
22 will help communities diversify their economies and
23 which will coordinate and facilitate at the local level
24 Federal, State, and private programs to help dis-
25 placed workers.

1 (2) As funds are available, provide grants and
2 loans to local communities to help them diversify
3 their economies.

4 (3) Make available facilities, equipment, and
5 personnel of the agencies administered by the Sec-
6 retaries to help provide assistance to workers and
7 communities, as may be identified by the national
8 and local community task forces.

9 (4) Coordinate its assistance programs with
10 those of the Department of Labor described in sec-
11 tion 12 and cooperate with the Forest Community
12 Assistance Coordinator described in subsection (f).

13 (f) FOREST COMMUNITY ASSISTANCE COORDINA-
14 TOR.—(1) Within 6 months after the date of enactment
15 of this Act, the President shall appoint a Forest Commu-
16 nity Assistance Coordinator to coordinate the efforts of
17 the Federal Government to alleviate social and economic
18 dislocation caused by reductions in timber harvests on na-
19 tional forest lands and the public lands administered by
20 the Bureau of Land Management.

21 (2) The Coordinator shall be paid at the rate of basic
22 pay payable for level IV of the Executive Schedule. The
23 Coordinator may appoint and fix the pay of additional per-
24 sonnel as the Coordinator considers appropriate to carry
25 out the duties described in this subsection.

1 (3) The duties of the Coordinator shall include (but
2 not be limited to) the following:

3 (A) Identifying existing Federal programs that
4 can help alleviate social and economic dislocation
5 caused by reductions in timber harvest. The Coordi-
6 nator shall cooperate with the forest community as-
7 sistance task force established under subsection (e)
8 to disseminate information about these programs to
9 State and local governments, private industry, and
10 displaced timber workers and shall help facilitate the
11 benefits of these programs reaching those who need
12 them the most.

13 (B) Developing new assistance programs to help
14 alleviate such economic and social dislocation.

15 (C) Submitting an annual report to Congress
16 on the amounts and types of assistance the Federal
17 Government has provided and how effective that as-
18 sistance has been.

19 (g) **TERMINATION.**—Unless otherwise specified, the
20 provisions of this section shall expire 10 years after the
21 date of enactment of this Act.

22 **SEC. 12. JOB TRAINING PARTNERSHIP FUNDS.**

23 (a) **SPECIAL JOB TRAINING FUND.**—(1) Effective for
24 5 fiscal years after the date of enactment of this Act, 5
25 percent of the Federal portion of all moneys received from

1 Federal timberlands each fiscal year shall be deposited
2 into the Treasury of the United States and shall constitute
3 a special fund which shall be available without further ap-
4 propriation for the purposes of section 325 of the Job
5 Partnership Training Act.

6 (2) For the purposes of paragraph (1) of this
7 subsection—

8 (A) the term "Federal timberlands" means
9 National Forest System lands and lands adminis-
10 tered by the Bureau of Land Management; and

11 (B) the term "moneys received"—

12 (i) with respect to National Forest System
13 lands, has the same meaning given such term
14 under the Act of May 23, 1908 (16 U.S.C. 500)
15 and section 13 of the Act of March 1, 1911 (16
16 U.S.C. 500); and

17 (ii) with respect to lands administered by
18 the Bureau of Land Management, means—

19 (I) moneys deposited into the Oregon
20 and California land-grant fund pursuant to
21 the Act of August 28, 1937 (Chapter 876,
22 50 Stat. 874; 43 U.S.C. 1181a et seq.);

23 (II) moneys deposited into the Coos
24 Bay Wagen Road grant fund pursuant to

1 the Act of May 24, 1939 (Chapter 144, 53
2 Stat. 753; 43 Stat. 1181f-1 et seq.); and
3 (III) moneys received from the dis-
4 posal of timber and other forest products
5 pursuant to the Act of July 31, 1947 (30
6 U.S.C. 601 et seq.).

7 (3) Nothing in this section shall be construed as
8 modifying or altering payments to States under the Act
9 of May 23, 1908 (16 U.S.C. 500), section 13 of the Act
10 of March 1, 1911 (16 U.S.C. 500), the Act of August 28,
11 1937 (43 U.S.C. 1181f et seq.), and the Act of May 24,
12 1939 (43 U.S.C. 1181f-1 et seq.).

13 (b) JOB TRAINING PARTNERSHIP ACT.—Part B of
14 title III of the Job Training Partnership Act (29 U.S.C.
15 1662-1662c) is amended by adding at the end the fol-
16 lowing:

17 “TIMBER WORKER ADJUSTMENT PROGRAM

18 “SEC. 325. (a) NOTICE REQUIREMENT.—The Sec-
19 retaries of Agriculture and Interior shall—

20 “(1) provide timely information to the Secretary
21 of Labor on any Federal action with respect to man-
22 aging the harvesting of timber on Federal lands
23 within their respective jurisdictions, if such action
24 will have a substantial impact on employment,

1 “(2) where feasible, identify the location of the
2 employment which will be affected by any such Fed-
3 eral action, and

4 “(3) provide to the Secretary of Labor such in-
5 formation with respect to such Federal action as the
6 Secretary of Labor may require.

7 If the Secretary of Labor receives information under this
8 subsection, the Secretary shall notify the Governor of each
9 State, and the affected service delivery areas within each
10 State, in which such Federal action is expected to have
11 a substantial impact on employment.

12 “(b) IN GENERAL.—The Secretary of Labor shall
13 make grants to States and service delivery areas (and
14 combinations of service delivery areas) to provide training
15 and adjustment assistance to eligible employees adversely
16 affected by a Federal action with respect to which the Sec-
17 retary has received a notice under subsection (a). For pur-
18 poses of this section, an eligible employee is an eligible
19 dislocated worker as defined in section 301(a) who has
20 been terminated or laid off, or has received a notice of
21 termination or lay off, from employment in the timber in-
22 dustry as a consequence of such Federal action.

23 “(c) APPLICATION.—In reviewing applications for
24 grants under subsection (b), the Secretary of Labor shall

1 give priority to applications from areas which have the
2 greatest number of eligible employees.

3 “(d) USE OF FUNDS.—Grants under subsection (b)
4 may be used for any purpose for which funds may be used
5 under section 314 or this part.

6 “(e) ADJUSTMENT ASSISTANCE.—

7 “(1) JOB SEARCH ALLOWANCE.—

8 “(A) IN GENERAL.—Grants under sub-
9 section (b) for adjustment assistance may be
10 used to provide job search allowances to eligible
11 employees. Such allowance, if granted, shall
12 provide reimbursement to the worker of not
13 more than 90 percent of the cost of necessary
14 job search expenses as prescribed by regulations
15 of the Secretary but may not exceed \$800 un-
16 less the need for a greater amount is justified
17 in the application and approved by the Sec-
18 retary.

19 “(B) CRITERIA FOR GRANTING JOB
20 SEARCH ALLOWANCES.—A job search allowance
21 may be granted only—

22 “(i) to assist an eligible employee who
23 has been totally separated from a job with-
24 in the United States; and

1 “(ii) where the Secretary determines
2 that such employee cannot reasonably be
3 expected to secure suitable employment in
4 the commuting area in which the worker
5 resides.

6 “(2) RELOCATION ALLOWANCE.—

7 “(A) IN GENERAL.—Grants under sub-
8 section (b) for adjustment assistance may be
9 used to provide relocation allowances to eligible
10 employees. Such an allowance may only be
11 granted to assist an eligible employee in relocat-
12 ing within the United States and only if the
13 Secretary determines that—

14 “(i) such employee cannot reasonably
15 be expected to secure suitable employment
16 in the commuting area in which the em-
17 ployee resides; and

18 “(ii) such employee—

19 “(I) has obtained suitable em-
20 ployment affording a reasonable ex-
21 pectation of long-term duration in the
22 area in which the employee wishes to
23 relocate, or has obtained a bona fide
24 offer of such employment, and

1 “(II) is totally separated from
2 previous employment at the time relo-
3 cation commences.

4 “(B) AMOUNT OF RELOCATION ALLOW-
5 ANCE.—The amount of any relocation allowance
6 for any eligible employee may not exceed the
7 amount which is equal to the sum of—

8 “(i) 90 percent of the reasonable and
9 necessary expenses, specified in regulations
10 prescribed by the Secretary, incurred in
11 transporting an employee and the employ-
12 ee’s family, if any, and household effects,
13 and

14 “(ii) a lump-sum equivalent to 3
15 times the employee’s average weekly wage,
16 up to a maximum payment of \$800, unless
17 the need for a greater amount is justified
18 in the application and approved by the
19 Secretary.

20 “(f) ADMINISTRATION.—Not more than 5 percent of
21 the funds obligated to carry out this section may be used
22 for the administration of this section.

23 “(g) FUNDING.—Funds to carry out this section shall
24 be made available from the Special Job Training Fund

1 established in section 12 of the Ancient Forest Act of
2 1991.”.

3 **SEC. 13. BUREAU OF LAND MANAGEMENT OREGON AND**
4 **CALIFORNIA LANDS.**

5 The Secretary of the Interior shall conduct a study
6 on consolidation of the Bureau of Land Management’s Or-
7 egon and California lands through exchange, purchase, or
8 donation. Three years after the date of enactment of the
9 Act, the Secretary shall submit a report on the study’s
10 findings and conclusions to the Committee on Interior and
11 Insular Affairs in the House of Representatives and the
12 Committee on Energy and Natural Resources in the Sen-
13 ate.

14 **SEC. 14. PLANNING.**

15 Where applicable, provisions of this Act shall be in-
16 corporated into Forest Service and Bureau of Land Man-
17 agement planning activities pursuant to applicable law.
18 Nothing in this Act shall prevent the implementation of
19 those portions of plans pursuant to other applicable law
20 that are unaffected by provisions of this Act.

21 **SEC. 15. NATIONAL MANDATE.**

22 (a) **AMENDMENT OF FEDERAL LAND POLICY AND**
23 **MANAGEMENT ACT OF 1976.**—Section 202(c)(3) of the
24 Federal Land Policy and Management Act of 1976 (43

1 U.S.C. 1712(c)(3)) is amended by inserting “, including
2 old growth forest ecosystems” after “concern”.

3 (b) OTHER AMENDMENTS.—(1) The first section of
4 the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C.
5 528) is amended by inserting “old growth forest
6 ecosystems,” after “outdoor recreation,”.

7 (2) Section 6(e)(1) of the Forest and Rangeland Re-
8 newable Resources Planning Act of 1974 (16 U.S.C.
9 1604) is amended by inserting “old growth forest
10 ecosystems,” after “outdoor recreation,”.

11 (c) NATIONWIDE INVENTORY.—The Secretary of Ag-
12 riculture and the Secretary of the Interior shall prepare
13 a nationwide inventory of old growth forest ecosystems on
14 national forests and public lands administered by the Bu-
15 reau of Land Management. The inventory shall be com-
16 pleted and submitted to Congress no later than 2 years
17 after the date of enactment of this Act for the Douglas-
18 fir Region and no later than 3 years after the date of en-
19 actment of this Act for the rest of the Nation.

20 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

21 There is authorized to be appropriated such sums as
22 may be necessary to carry out the purposes of this Act.

102D CONGRESS
1ST SESSION

H. R. 2463

To provide for the protection and management of ecologically-significant old growth forest on certain national forest lands and public domain lands in the States of Washington, Oregon, and California; to ensure the conservation of the Northern Spotted Owl and protection of other species associated with old growth forest on such lands; to provide economic adjustment grants and benefit payments to communities and workers economically dependent on such lands; to facilitate the implementation of land management plans for such lands and Federal lands elsewhere; to ensure a stable and predictable supply of commodity resources from, and the stability of communities dependent on, Federal lands; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 1991

Mr. HUCKABY (for himself, Mr. SWIFT, Mr. DICKS, Mr. CHANDLER, Mr. HATCHER, Mr. SMITH of Oregon, Mr. HERGER, Mr. MURPHY, Mr. YOUNG of Alaska, Mr. DOOLITTLE, and Mr. HOLLOWAY) introduced the following bill; which was referred jointly to the Committees on Agriculture, Interior and Insular Affairs, and Merchant Marine and Fisheries

A BILL

To provide for the protection and management of ecologically-significant old growth forest on certain national forest lands and public domain lands in the States of Washington, Oregon, and California; to ensure the conservation of the Northern Spotted Owl and protection of other species associated with old growth forest on such lands; to provide economic adjustment grants and benefit payments to communities and workers economically depend-

ent on such lands; to facilitate the implementation of land management plans for such lands and Federal lands elsewhere; to ensure a stable and predictable supply of commodity resources from, and the stability of communities dependent on, Federal lands; and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "Forests and Families
- 4 Protection Act of 1991".

TABLE OF CONTENTS

- Sec. 2. Findings.
- Sec. 3. Definitions.

TITLE I—ESTABLISHING LONG TERM PROGRAM

- Sec. 101. Purposes.
- Sec. 102. Plan revisions.
- Sec. 103. Regulations; establishment of the Old Growth Reserve.
- Sec. 104. Designation of areas to the Old Growth Reserve.
- Sec. 105. Protection of the Northern Spotted Owl and other species.
- Sec. 106. Reviews of administrative set-asides.
- Sec. 107. Endangered Species Act compliance.
- Sec. 108. Maps and legal descriptions.
- Sec. 109. Release.
- Sec. 110. Management of the Old Growth Reserve.
- Sec. 111. Sufficiency.
- Sec. 112. Additions to the Old Growth Reserve.
- Sec. 113. Access to non-Federal land.

TITLE II—ENSURING THE EFFECTIVENESS OF FEDERAL LAND PLANNING

- Sec. 201. Purposes.

PART A—AMENDING, REVISING, AND MONITORING PLANS

- Sec. 202. Economic stability.
- Sec. 203. Consideration of commodity resources.
- Sec. 204. Plan balance and other requirements.
- Sec. 205. Fully allocated costs analysis.
- Sec. 206. Minimum management requirements.
- Sec. 207. Phase-in of output changes.
- Sec. 208. Plan monitoring and maintenance.
- Sec. 209. Citizen petitions for amendment or revision.

PART B—IMPLEMENTING PLANS

- Sec. 210. Administrative appeals and petitions.
- Sec. 211. Judicial review of plans.
- Sec. 212. Judicial review of minimum management requirements.
- Sec. 213. Judicial review of plan implementing actions.
- Sec. 214. Deadlines and procedures.
- Sec. 215. Status of plans.
- Sec. 216. Tiering of environmental documentation.
- Sec. 217. Budget disclosures.
- Sec. 218. Regulations.

TITLE III—PROVIDING AN INTERIM PROGRAM

- Sec. 301. Purposes.
- Sec. 302. Duration of the interim program.
- Sec. 303. Suspension of certain plan elements.
- Sec. 304. Interim timber sales programs.
- Sec. 305. Interim old growth forest protection.
- Sec. 306. Endangered Species Act and National Environmental Policy Act compliance.
- Sec. 307. Judicial review.
- Sec. 308. Old Growth Forest Research Program.

TITLE IV—ECONOMIC ADJUSTMENT

- Sec. 401. Purposes.
- Sec. 402. Special Economic Adjustment Fund.
- Sec. 403. Timber Economic Adjustment Commission.
- Sec. 404. Administrative authority.
- Sec. 405. Timber Economic Adjustment Advisory Panel.
- Sec. 406. Compensation and expenses.
- Sec. 407. Purpose of economic adjustment grants and benefit payments.
- Sec. 408. Eligibility for economic adjustment grants and benefit payments.
- Sec. 409. Notice of Secretaries.
- Sec. 410. Termination of Commission and Panel; Commission Report.

TITLE V—MISCELLANEOUS

- Sec. 501. O & C lands.
- Sec. 502. Authorization of appropriations.

1 SEC. 2. FINDINGS.

2 The Congress finds as follows:

- 3 (1) National Forest Lands and Public Lands in
- 4 California, Oregon, and Washington contain the
- 5 most significant remaining stands of old growth for-
- 6 ests which were once abundant in many regions of
- 7 the Nation;

1 (2) a significant but unquantified portion of
2 this remnant old growth forest has been preserved
3 by the Congress through statutory designation as
4 units of the National Park, Wildlife Refuge, Wilder-
5 ness Preservation, Wild and Scenic Rivers, Trails,
6 and other conservation Systems;

7 (3) the old growth forest on National Forest
8 Lands and Public Lands which remains outside of
9 the conservation system units designated by the
10 Congress is subject to the sustained-yield and multi-
11 ple-use planning and management mandates of the
12 Multiple-Use Sustained-Yield of 1960; the Forest
13 and Rangeland Renewable Resources Planning Act
14 of 1974, as amended by the National Forest Man-
15 agement Act of 1976; and the Federal Land Policy
16 and Management Act of 1976;

17 (4) portions of this remaining old growth forest
18 which occupy productive forest sites and are suitable
19 for timber production contain extraordinary econom-
20 ic value for communities dependent on a stable and
21 predictable supply of timber for employment, reve-
22 nues, and public services, and for the manufacture
23 of wood products critical for housing construction
24 and other sectors of the national economy;

1 (5) portions of this remaining old growth forest,
2 termed "ecologically-significant old growth forest,"
3 also contain rare and irreplaceable ecological and
4 species preservation values which have recently
5 gained heightened recognition from scientific re-
6 search and widespread public interest;

7 (6) portions of the old growth forest serve as
8 habitat for the Northern Spotted Owl, listed and
9 protected as a threatened species under the Endan-
10 gered Species Act;

11 (7) the intense, competing pressures to preserve
12 or make economic use of the remaining old growth
13 forest have severely disrupted the ability of the For-
14 est Service and the Bureau of Land Management to
15 plan and manage lands within their jurisdiction;

16 (8) most of the plans for lands managed by the
17 Forest Service and the Bureau of Land Management
18 in California, Oregon, and Washington have been
19 completed, but, notwithstanding administrative set-
20 asides of old growth forest, may not provide fully for
21 the protection and attendant management of ecologi-
22 cally-significant old growth forest and species associ-
23 ated with old growth forest, and remain, in any
24 event, subject to continued controversy;

1 (9) further congressional direction is required
2 to ensure the effective planning and management of
3 National Forest Lands and Public Lands which con-
4 tain old growth forest to secure the protection and
5 attendant management of those areas of old growth
6 forest that are ecologically-significant and the spe-
7 cies that are associated with old growth forest;

8 (10) further congressional direction and an eco-
9 nomic adjustment program are required to avoid or
10 minimize any reduction in timber supply and any so-
11 cial or economic disruption in timber-dependent
12 communities that might otherwise result from the
13 protection and attendant management of ecological-
14 ly-significant old growth forest and species associat-
15 ed with old growth forest;

16 (11) the National Forest Management Act and
17 the Federal Land Policy and Management Act were
18 enacted in 1976 in order to assure orderly and envi-
19 ronmentally sensitive planning, with substantial pub-
20 lic involvement, for the multiple-use of the resources
21 of Federal lands in a stable and predictable manner;

22 (12) numerous plans were not completed until
23 after statutory and regulatory deadlines for plan
24 completion and most completed plans in controver-
25 sial areas have not been successfully implemented;

1 (13) changes in policy made outside the plan-
2 ning process have resulted in the constructive
3 amendment of completed plans without adherence to
4 statutory procedures for plan amendment;

5 (14) administrative appeals and litigation have
6 been filed extensively, have substantially delayed
7 plan preparation, have frustrated plan implementa-
8 tion and Federal land management actions, and
9 have on several occasions, compelled the Congress to
10 enact emergency provisions to alleviate Federal land
11 management problems resulting therefrom;

12 (15) Congress provided extensive requirements
13 for the preparation of plans in the National Forest
14 Management Act, but neither that Act nor the Fed-
15 eral Land Policy and Management Act contains any
16 meaningful direction to the Forest Service or Bu-
17 reau of Land Management on how to effectively im-
18 plement plans; and

19 (16) additional congressional guidance on the
20 implementation, amendment, and revision of plans is
21 necessary to ensure that the stability and predict-
22 ability in Federal land management intended by the
23 1976 Acts are achieved, that the congressional direc-
24 tion herein to protect and manage areas of ecologi-
25 cally-significant old growth forest and species associ-

1 ated with old growth forest is implemented, and that
2 the environment impacts and community social and
3 economic dislocation which result from instability
4 and uncertainty in Federal land management are
5 avoided.

6 **SEC. 3. DEFINITIONS.**

7 (a) As used in titles I, III, IV, and V and sections
8 2 and 201 of this Act, the term—

9 (1) “Commission” means the Timber Economic
10 Adjustment Commission established pursuant to sec-
11 tion 403 of this Act;

12 (2) “Committees of Congress” means the Com-
13 mittee on Agriculture and Committee on Interior
14 and Insular Affairs of the House of Representatives,
15 and the Committee on Agriculture, Nutrition, and
16 Forestry and Committee on Energy and Natural Re-
17 sources of the United States Senate;

18 (3) “Federal lands” means those lands in the
19 National Forest System managed by the Forest
20 Service and defined in section 11(a) of the Forest
21 and Rangeland Renewable Resources Planning Act
22 of 1974 (16 U.S.C. 1609(a)) and those lands man-
23 aged by the Bureau of Land Management and de-
24 fined in section 103(e) of the Federal Land Policy
25 and Management Act of 1976 (43 U.S.C. 1702(e));

1 (4) "Forest Plans" means land and resource
2 management plans prepared by the Forest Service
3 for units of the National Forest Lands, as defined
4 in clause (5) of this subsection, pursuant to section
5 6 of the Forest and Rangeland Renewable Resources
6 Planning Act of 1974, as amended by the National
7 Forest Management Act of 1976 (16 U.S.C. 1604)
8 and land use plans prepared by the Bureau of Land
9 Management for units of the Public Lands, as de-
10 fined in clause (7) of this subsection, pursuant to
11 section 202 of the Federal Land Policy and Manage-
12 ment Act of 1976 (43 U.S.C. 1712);

13 (5) "National Forest Lands" means those fed-
14 eral lands, as defined in clause (3) of this subsec-
15 tion, managed by the Forest Service that are includ-
16 ed within the following seventeen national forests in
17 Oregon, Washington, and California: the Deschutes,
18 Gifford Pinchot, Klamath, Mendocino, Mt. Baker-
19 Snoqualmie, Mt. Hood, Okanogan, Olympic, Rouge
20 River, Shasta-Trinity, Siskiyou, Siuslaw, Six Rivers,
21 Umpqua, Wenatchee, Willamette, and Winema;

22 (6) "Panel" means the Timber Economic Ad-
23 justment Advisory Panel established pursuant to sec-
24 tion 405 of this Act;

1 (7) "Public Lands" means those Federal lands,
2 as defined in clause (3) of this subsection, managed
3 by the Bureau of Land Management that are includ-
4 ed within the following eight Bureau of Land Man-
5 agement administrative districts in Oregon and Cali-
6 fornia: Coos Bay, Eugene, Lakeview, Medford,
7 Roseburg, Salem, Susanville, and Ukiah;

8 (8) "Reserve" means the Old Growth Forest
9 Reserve established pursuant to title I of this Act;
10 and

11 (9) "Secretaries" or "Secretary" means the
12 Secretary of Agriculture with respect to National
13 Forest Lands and the Secretary of the Interior with
14 respect to Public Lands.

15 (b) Terms used in sections 202 through 217 of this
16 Act have the same meaning they are accorded in the For-
17 est and Rangeland Renewable Resources Planning Act of
18 1974 (16 U.S.C. 1600 et seq.) or the Federal Land Policy
19 and Management Act of 1976 (43 U.S.C. 1701 et seq.),
20 whichever is applicable.

21 **TITLE I—ESTABLISHING LONG TERM**
22 **PROGRAM**

23 **SEC. 101. PURPOSES.**

24 The purposes of this title are to establish an Old
25 Growth Forest Reserve; to designate areas of ecologically-

1 significant old growth forest on National Forest Lands
2 and Public Lands to the Reserve; to ensure the proper
3 management of such areas in order to conserve the North-
4 ern Spotted Owl and protect other species associated with
5 the old growth forest; to avoid or minimize any effects on
6 other resources and the uses thereof, and the communities
7 economically dependent on such resources, on the National
8 Forest Lands and Public Lands; and to provide for a peri-
9 od of stability in managing those lands.

10 **SEC. 102. PLAN REVISIONS.**

11 Not later than three full fiscal years from the date
12 of enactment of this Act, the Secretaries shall adopt final
13 revisions of Forest Plans, or, where no Forest Plans exist,
14 final new Forest Plans, in accordance with the procedures
15 and requirements of this title and the Forest and Range-
16 land Renewable Resources Planning Act of 1974 (16
17 U.S.C. 1600 et seq.) or the Federal Land Policy and Man-
18 agement Act of 1976 (43 U.S.C. 1701 et seq.), as both
19 are amended by title II of this Act: *Provided, however,*
20 That, for the purpose of this title, the "five fiscal years"
21 referred to in section 207 of this Act shall be the three
22 full fiscal years of the interim program established pursu-
23 ant to title III of this Act and two years each of which
24 is deemed to have the average annual commodity output
25 for the decade of 1980 through 1989.

1 **SEC. 103. REGULATIONS; ESTABLISHMENT OF THE OLD**
2 **GROWTH RESERVE.**

3 Not later than fifteen months from the date of enact-
4 ment of this Act, the Secretaries shall promulgate regula-
5 tions to govern the preparation of the revised or new For-
6 est Plans and otherwise implement this title, which regula-
7 tions, at a minimum, shall—

8 (1) define “ecologically-significant old growth
9 forest” as used in this Act;

10 (2) establish the Old Growth Forest Reserve to
11 be comprised of areas of ecologically-significant old
12 growth forest on National Forest Lands and Public
13 Lands that are designated pursuant to section 104
14 of this Act and on National Park and Wildlife Ref-
15 uge System lands, and, upon petition of the relevant
16 governor, lands owned by the States of California,
17 Oregon and Washington that are designated pursu-
18 ant to section 112 of this Act; and

19 (3) establish procedures and criteria for the
20 identification and selection of areas of ecologically-
21 significant old growth forest to be included in the
22 Reserve pursuant to section 104 of this Act.

23 **SEC. 104. DESIGNATION OF AREAS TO THE OLD GROWTH**
24 **RESERVE.**

25 (a) The final revised or new Forest Plans adopted
26 pursuant to section 102 of this Act shall designate areas

1 of ecologically-significant old growth forest on National
2 Forest Lands and Public Lands to the Old Growth Forest
3 Reserve established by regulation pursuant to section
4 103(2) of this Act.

5 (b) The number, size, and types of areas of ecological-
6 ly-significant old growth forest designated to the Reserve
7 shall be those necessary to achieve the purposes of this
8 title as provided in section 101 of this Act.

9 (c) Areas of ecologically-significant old growth forest
10 shall be selected from the National Forest Lands and Pub-
11 lic Lands for designation to the Reserve in the following
12 order of priority:

13 (1) first, areas of ecologically-significant old
14 growth forest which are included within the National
15 Wilderness Preservation System, National Wild and
16 Scenic Rivers System, National Trails System, or
17 are otherwise designated by Congress in a manner
18 that excludes timber harvesting;

19 (2) second, areas of ecologically-significant old
20 growth forest in which timber harvesting remains
21 proscribed by previous planning or other administra-
22 tive decision after completion of the review required
23 in section 106 of this Act;

24 (3) third, any areas of ecologically-significant
25 old growth forest which may be identified, or may

1 meet criteria provided, in the recovery plan for the
2 Northern Spotted Owl prepared pursuant to section
3 4(f) of the Endangered Species Act (16 U.S.C.
4 1533(f)) for management in a manner similar to
5 that required in section 110 of this Act; and

6 (4) fourth, other areas of ecologically-significant
7 old growth forest which are necessary to achieve the
8 purposes of this title as provided in section 101 of
9 this Act, require management in accordance with
10 section 110 of this Act, and otherwise meet criteria
11 established by rule pursuant to section 103(3) of
12 this Act.

13 (d) Preference in selecting areas of ecologically-signif-
14 icant old growth forest shall be accorded to—

15 (1) those areas which contain multiple
16 noncommodity resource values associated with eco-
17 logically-significant old growth forest over those
18 areas in which the number of such values is limited;

19 (2) those areas which contain noncommodity re-
20 source values associated with ecologically-significant
21 old growth forest that have demonstrated signifi-
22 cance over areas in which such values have limited
23 or no significance;

24 (3) those areas which contain noncommodity re-
25 source values associated with ecologically-significant

1 old growth forest that are not redundant to
2 noncommodity values contained in areas which are
3 outside of National Forest Lands and Public Lands
4 and are accorded protection under Federal or State
5 law comparable to that provided by section 110 of
6 this Act, including units of the National Park and
7 Wildlife Refuge Systems and State park systems;

8 (4) those areas which have the least adverse im-
9 pact on communities or economic enterprises eco-
10 nomically dependent upon the National Forest
11 Lands or Public Lands, in accordance with section
12 202 of this Act; and

13 (5) those areas which have the least impact on,
14 and permit maintenance of the balance most similar
15 to that which has existed historically among, all uses
16 of each affected unit of National Forest or Public
17 Lands.

18 **SEC. 105. PROTECTION OF THE NORTHERN SPOTTED OWL**
19 **AND OTHER SPECIES.**

20 (a) The final revised or new Forest Plans adopted
21 pursuant to section 102 of this Act shall provide protec-
22 tion for the Northern Spotted Owl and other species asso-
23 ciated with old growth forest in accordance with this
24 section.

1 (b) In preparing each revised or new Forest Plan, the
2 Secretary shall consider fully the recovery plan, and any
3 economic analysis related thereto, prepared for the North-
4 ern Spotted Owl pursuant to section 4(f) of the Endan-
5 gered Species Act (16 U.S.C. 1533(f)), and incorporate
6 in the final revised or new Forest Plan such portions of,
7 or alternatives to, the recovery plan as the Secretary
8 deems necessary to meet the obligations of the Forest
9 Service or the Bureau of Land Management under the En-
10 dangered Species Act (16 U.S.C. 1531 et seq.) in the unit
11 to which the Forest Plan applies.

12 (c) In preparing each revised or new Forest Plan, the
13 Secretary shall consider any other species associated with
14 old growth forest in the unit to which the Forest Plan
15 applies which the Secretary believes warrants special pro-
16 tection. Such consideration shall include a determination
17 of the extent to which the designation of areas to the Re-
18 serve pursuant to section 104 of this Act, and the incorpo-
19 ration of portions of or alternatives to the Northern Spot-
20 ted Owl recovery plan pursuant to this section, in such
21 Forest Plan provides such protection. The Secretary shall
22 provide in writing in the decision to adopt the final revised
23 or new Forest Plan the basis of his determination and,
24 if any other direction providing additional protection to
25 such species is included in such Forest Plan, an explana-

1 tion of the necessity thereof and the effect thereof on other
2 resources and their uses in the unit to which the Forest
3 Plan applies.

4 **SEC. 106. REVIEWS OF ADMINISTRATIVE SET-ASIDES.**

5 In preparing each revised or new Forest Plan pursu-
6 ant to section 102 of this Act, the Secretaries shall review
7 and, where appropriate, revise all land allocations and
8 other resource constraints previously applied to the unit
9 to which the Forest Plan applies to minimize, to the maxi-
10 mum extent feasible, the impact on preexisting uses and
11 levels of use of the unit resulting from establishment of
12 the Reserve and the designation thereto of areas of eco-
13 logically-significant old growth forest.

14 **SEC. 107. ENDANGERED SPECIES ACT COMPLIANCE.**

15 (a) Prior to the adoption of each final revised or new
16 Forest Plan pursuant to section 102 of this Act, the Secre-
17 tary shall submit the Forest Plan for consultation pursu-
18 ant to section 7(a)(2) of the Endangered Species Act (16
19 U.S.C. 1536(a)(2)). Consultation shall include the Forest
20 Plan and all actions, including timber sales, which may
21 be undertaken under and consistent with the Forest Plan
22 during the term of the Forest Plan. Thereafter, consulta-
23 tion shall be reinitiated only when the Forest Plan is re-
24 vised or significantly amended and shall include the revi-
25 sion or amendment and all actions which may be under-

1 taken under and consistent with such revision or amend-
2 ment during the term of such Forest Plan, as revised or
3 amended.

4 (b) If, during consultation on a Forest Plan required
5 by subsection (a) of this section, jeopardy of any listed
6 species or adverse modification of any designated critical
7 habitat is found under section 7(b) of the Endangered
8 Species Act (16 U.S.C. 1536(b)), the Secretary responsi-
9 ble for the Forest Plan shall consider any reasonable and
10 prudent alternatives suggested during consultation that
11 are consistent with and comply with the provisions of this
12 title; the Forest and Rangeland Renewable Resources
13 Planning Act of 1974 or the Federal Land Policy and
14 Management Act of 1976, as both are amended by title
15 II of this Act; and other applicable law. If the Secretary
16 determines that no such reasonable and prudent alterna-
17 tive exists, the Secretary shall apply for review of the For-
18 est Plan pursuant to section 7(e)-(1) of the Endangered
19 Species Act (16 U.S.C. 1536(e)-(1)).

20 **SEC. 106. MAPS AND LEGAL DESCRIPTIONS.**

21 The Secretaries shall prepare a map or set of maps
22 of the areas of ecologically-significant old growth forest
23 designated to the Reserve under section 104 of this Act.
24 Such map or maps shall be on file for public inspection
25 in the offices of the Chief of the Forest Service and the

1 Director of the Bureau of Land Management and each
2 office of the Forest Service and Bureau of Land Manage-
3 ment responsible for administering any such area. Such
4 maps shall be revised as made necessary by subsequent
5 revisions of or significant amendments to the Forest
6 Plans.

7 **SEC. 109. RELEASE.**

8 (a) After adoption of the final revised or new Forest
9 Plans pursuant to section 102 of this Act, each Secretary
10 shall not be required to review the designation of ecologi-
11 cally-significant old growth forest areas to the Reserve
12 prior to the revision of such Forest Plans, but shall con-
13 duct such review when such Forest Plans are revised,
14 which revision will ordinarily occur on a ten-year cycle,
15 or at least every fifteen years, unless prior to that time
16 the Secretary finds that conditions in the unit to which
17 a Forest Plan applies have significantly changed.

18 (b) Those areas of ecologically-significant old growth
19 forest or other growth forest areas not designated to the
20 Reserve shall be managed for multiple use in accordance
21 with the Forest Plans pursuant to section 6 of the Forest
22 and Rangeland Renewable Resources Planning Act of
23 1974 (16 U.S.C. 1604) or section 202 of the Federal Land
24 Policy and Management Act of 1976 (43 U.S.C. 1712),
25 and those areas need not be managed for the purpose of

1 protecting their suitability for designation to the Reserve
2 prior to or during subsequent revision of the final revised
3 or new Forest Plans following their adoption pursuant to
4 section 102 of this Act.

5 (c) If Forest Plans revised pursuant to subsection (b)
6 of this section are implemented pursuant to the Forest
7 and Rangeland Renewable Resources Planning Act of
8 1974 (16 U.S.C. 1600 et seq.) or the Federal Land Policy
9 and Management Act of 1976 (43 U.S.C. 1701 et seq.),
10 and other applicable law, areas of ecologically-significant
11 old growth forest or other old growth forest areas not des-
12 ignated to the Reserve need not be managed for the pur-
13 pose of protecting their suitability for designation to the
14 Reserve prior to or during subsequent revision of those
15 Forest Plans.

16 **SEC. 110. MANAGEMENT OF THE OLD GROWTH RESERVE.**

17 (a) Each area of ecologically-significant old growth
18 forest designated to the Reserve shall be managed in ac-
19 cordance with direction provided in the applicable final re-
20 vised or new Forest Plan. Such direction shall ensure pro-
21 tection of those noncommodity resource values identified
22 in the Forest Plan as the values for which the area is des-
23 ignated to the Reserve, and shall comply with the require-
24 ments of the Forest and Rangeland Renewable Resources
25 Planning Act of 1974 (16 U.S.C. 1600 et seq.) or the Fed-

1 eral Land Policy and Management Act of 1976 (43 U.S.C.
2 1701 et seq.), as both are amended by title II of this Act;
3 other applicable law; and this section.

4 (b) Effective upon adoption of the final revised or
5 new Forest Plan, any area of ecologically-significant old
6 growth forest designated to the Reserve in such Forest
7 Plan is, subject to valid existing rights, withdrawn from
8 disposition under the public land laws and location, entry,
9 and patent under the mining laws of the United States,
10 and closed to the operation of the mineral leasing laws
11 of the United States and the Geothermal Steam Act of
12 1970.

13 (c) Except as prohibited or restricted by applicable
14 law, roads, structures, and motorized and nonmotorized
15 recreation and access may be permitted within areas of
16 ecologically-significant old growth forest designated to the
17 Reserve where consistent with the purposes of this title
18 as provided in section 101 of this Act.

19 (d) Except as prohibited or restricted by applicable
20 law, the Secretary may permit hunting, trapping, and fish-
21 ing on lands and waters within areas of ecologically-signif-
22 icant old growth forest designated to the Reserve in ac-
23 cordance with applicable Federal and State law. The Sec-
24 retary may designate zones where, and establish periods
25 when, such activities will not be permitted for reasons of

1 public safety, fish and wildlife management, public use
2 and enjoyment, or protection of the Reserve. Except in
3 emergencies, any regulations issued by the Secretary
4 under this subsection shall be put into effect only after
5 consultation with the appropriate State agencies responsi-
6 ble for hunting and fishing activities.

7 (e) Timber harvesting on any area of ecologically-sig-
8 nificant old growth forest designated to the Reserve shall
9 be permitted—

10 (1) if it is necessary to protect such area or ad-
11 jacent lands from insects or disease and life or prop-
12 erty from imminent fire danger; or

13 (2) if it complies with the prescriptions and
14 guidelines developed in the Old Growth Forest Re-
15 search Program pursuant to section 308(b) of this
16 Act and is not proscribed for such area in the final
17 revised or new Forest Plan applicable thereto.

18 **SEC. 111. SUFFICIENCY.**

19 Upon completion of the Endangered Species Act
20 processes pursuant to section 107 of this Act and the
21 adoption of a final revised or new Forest Plan pursuant
22 to section 102 of this Act, on the unit to which the Forest
23 Plan applies the responsibilities for the management, pro-
24 tection, and recovery of the Northern Spotted Owl and
25 other species associated with old growth forest of the Fed-

1 eral Government and any person authorized by the Feder-
2 al Government to conduct activities on such unit under
3 the Endangered Species Act (16 U.S.C. 1531 et seq.), the
4 Act of July 3, 1918 (16 U.S.C. 703 et seq.) (commonly
5 known as the "Migratory Bird Treaty Act"), and the ap-
6 plicable wildlife-related provisions of the Forest and
7 Rangeland Renewable Resources Planning Act of 1974
8 (16 U.S.C. 1600 et seq.) and the Federal Land Policy and
9 Management Act of 1976 (43 U.S.C. 1701 et seq.) are
10 fully discharged until such Forest Plan is revised or sig-
11 nificantly amended. Upon completion of the Endangered
12 Species Act processes pursuant to section 107 of this Act
13 pertaining to any such revision or significant amendment
14 and to each revision to or significant amendment of the
15 Forest Plan thereafter, the same responsibilities are fully
16 discharged for the term of the Forest Plan, as amended
17 or revised.

18 **SEC. 112. ADDITIONS TO THE OLD GROWTH RESERVE.**

19 (a) Not later than eighteen months from the date of
20 enactment of this Act, the Secretary of the Interior shall
21 designate to the Reserve all areas of ecologically-signifi-
22 cant old growth forest in units of the National Park Sys-
23 tem and National Wildlife Refuge System in Oregon,
24 Washington, and Northern California.

1 (b) The Secretary of the Interior shall designate to
2 the Reserve any area of ecologically-significant old growth
3 forest on State lands in Oregon, Washington, or Northern
4 California if such area is nominated for designation by the
5 governor of the State and is managed under State law in
6 a manner consistent with the requirements of section 110
7 of this Act.

8 **SEC. 113. ACCESS TO NON-FEDERAL LAND.**

9 The granting of any easement or other form of access
10 across Federal land to private or other nonfederal land
11 by the Forest Service, United States Department of Agri-
12 culture, or the Bureau of Land Management, United
13 States Department of the Interior, and the construction
14 and maintenance of such easement or access, shall not
15 constitute an "agency action" under section 7; nor other-
16 wise subject the agency or the recipient of the easement
17 or access to section 7(a) or 9(a)(1), of the Endangered
18 Species Act concerning any species listed pursuant to sec-
19 tion 4 of that Act which is associated with old growth for-
20 est in Washington, Oregon, or Northern California.

21 **TITLE II—ENSURING THE EFFECTIVENESS**
22 **OF FEDERAL LAND PLANNING**

23 **SEC. 201. PURPOSES.**

24 The purposes of this title are to provide additional
25 Congressional guidance on the implementation, amend-

1 ment, and revision of plans for Federal lands necessary
2 to ensure that the final new or revised Forest Plans, and
3 the protection provided therein to the Old Growth Forest
4 Reserve, Northern Spotted Owl, and other old growth-as-
5 sociated species in title I of this Act are implemented ef-
6 fectively; that the stability and predictability in the man-
7 agement of Federal lands intended by the Forest and
8 Rangeland Renewable Resources Planning Act of 1974, as
9 amended by the National Forest Management Act of 1976
10 (16 U.S.C. 1600 et seq.), and the Federal Land Policy
11 Management Act of 1976 (43 U.S.C. 1701 et seq.) are
12 achieved; and that the environmental impacts and commu-
13 nity social and economic dislocation which result from in-
14 stability and uncertainty in management of the Federal
15 lands are avoided.

16 **PART A—AMENDING, REVISING, AND**
17 **MONITORING PLANS**

18 **SEC. 202. ECONOMIC STABILITY.**

19 (a) Section 6(e) of the Forest and Rangeland Renew-
20 able Resources Planning Act of 1974 (16 U.S.C. 1604(e))
21 is amended by striking “wilderness; and” and inserting
22 “wilderness;” in paragraph (1), striking “management.”
23 and inserting in lieu thereof “management;” in paragraph
24 (2), and adding a new paragraph (3) as follows:

1 “(3) maintain to the maximum extent feasible
2 the stability of any community or economic enter-
3 prise economically dependent upon a unit of the Na-
4 tional Forest System, and shall prepare in the
5 course of any plan amendment or revision undertak-
6 en after the date of enactment of this paragraph an
7 analysis for each such community or enterprise that:
8 (i) examines the impacts of planning alternatives on
9 the community, including its revenues and budget,
10 the level and quality of its public services, the em-
11 ployment and income of its residents, and its social
12 conditions, and on the enterprise and its employees;
13 (ii) explains how resource allocations for the plan-
14 ning alternatives would comport with or differ from
15 historic community expectations; and (iii) describes
16 how those impacts were considered in selecting a
17 preferred alternative. The Secretary, in consultation
18 with the Secretaries of Commerce and Labor, shall
19 define by regulation the term ‘community or eco-
20 nomic enterprise economically dependent upon a unit
21 of the National Forest System’ as used in this para-
22 graph; and”.

23 (b) Section 202 of the Federal Land Policy and Man-
24 agement Act of 1976 (43 U.S.C. 1712) is amended by in-
25 serting at the end thereof the following new subsection (g):

1 “(g) In developing, maintaining, amending and revis-
2 ing land use plans pursuant to this section, the Secretary
3 shall assure that such plans—

4 “(1) maintain to the maximum extent feasible
5 the stability of any community or economic enter-
6 prise economically dependent upon public lands to
7 which the plans apply, and shall conduct in the
8 course of preparation of any plan, plan amendment,
9 or plan revision undertaken after the date of enact-
10 ment of this subsection an analysis for each such
11 community or enterprise that: (i) examines the im-
12 pacts of planning alternatives on the community, in-
13 cluding its revenues and budget, the level of and
14 quality of its public services, the employment and in-
15 come of its residents, and its social conditions, and
16 on the enterprise and its employees; (ii) explains
17 how resource allocations for the planning alterna-
18 tives would comport with or differ from historic com-
19 munity expectations; and (iii) describes how those
20 impacts were considered in selecting a preferred al-
21 ternative. The Secretary, in consultation with the
22 Secretaries of Commerce and Labor, shall defined by
23 regulation the term ‘community or economic enter-
24 prise economically dependent upon public lands’ as
25 used in this subsection; and”.

1 **SEC. 203. CONSIDERATION OF COMMODITY RESOURCES.**

2 (a) Section 6(e) of the Forest and Rangeland Renew-
3 able Resources Planning Act of 1974 (16 U.S.C. 1604(e))
4 is amended by adding at the end thereof a new paragraph
5 (4) as follows:

6 “(4) consider fully global demand for commodi-
7 ty resources located in the units of the National
8 Forest System to which such plans apply and the
9 environmental implications or effects of satisfying
10 such demand by supply of such resources from other
11 domestic or foreign sources or substitution of other
12 resources or products.”.

13 (b) Section 202 of the Federal Land Policy and Man-
14 agement Act of 1976 (43 U.S.C. 1712) is amended by
15 adding at the end of the new subsection (g) provided by
16 section 202(b) of this Act the following clause (2):

17 “(2) consider fully global demand for commodi-
18 ty resources located on the public lands to which
19 such plans apply and the environmental implications
20 or effects of satisfying such demand by supply of
21 such resources from other domestic or foreign
22 sources or substitution of other resources or
23 products.”.

24 **SEC. 204. PLAN BALANCE AND OTHER REQUIREMENTS.**

25 (a) Section 6(f) of the Forest and Rangeland Renew-
26 able Resources Planning Act of 1974 (16 U.S.C. 1604(f))

1 is amended by striking "section; and" and inserting in lieu
2 thereof "section;" in paragraph (4); striking "section."
3 and inserting in lieu thereof "section; and" in paragraph
4 (5), and adding a new paragraph (6) as follows:

5 “(6) be subject to the following additional pro-
6 visions concerning amendment and revision:

7 “(A) When a plan amendment or revision
8 process is initiated pursuant to paragraph (4)
9 or (5) of this subsection, the Secretary shall
10 consider and discuss in decision and environ-
11 mental analysis documentation accompanying
12 the plan amendment or revision other land use
13 or management changes that, in combination
14 with the change for which the amendment or
15 revision was initiated, would be appropriate to
16 maintain overall plan balance and meet other
17 plan goals and outputs.

18 “(B) Any change in management of a unit
19 of the National Forest System that is required
20 by a court order or designation of a threatened
21 or endangered species or other action under the
22 Endangered Species Act (16 U.S.C. 1531 et
23 seq.), or that is justified on the basis of new in-
24 formation, which would not be consistent with
25 an existing plan shall require amendment or re-

1 vision of the plan pursuant to paragraph (4) or
2 (5) of this subsection and, except where the
3 Secretary determines the court order or statute
4 requires otherwise and publishes the determina-
5 tion in the Federal Register, shall not be taken
6 until the plan amendment or revision is final.”.

7 (b) Section 202 of the Federal Land Policy and Man-
8 agement Act of 1976 (43 U.S.C. 1712) is amended by
9 adding to the end thereof the following new subsection (h):

10 “(h)(1) Whenever a land use plan is amended or re-
11 vised, the Secretary shall consider and discuss in decision
12 and environmental analysis documentation accompanying
13 the plan amendment or revision other land use or manage-
14 ment changes that, in combination with the change for
15 which the amendment or revision was initiated, would be
16 appropriate to maintain overall plan balance and meet
17 other plan goals and outputs.

18 “(2) Any change in management of the public lands
19 that is required by a court order or designation of a
20 threatened or endangered species or other action under
21 the Endangered Species Act (16 U.S.C. 1351 et seq.), or
22 that is justified on the basis of new information, which
23 would not be consistent with an existing land use plan
24 shall require amendment or revision of the plan and, ex-
25 cept where the Secretary determines the court order or

1 statute requires otherwise and publishes the determination
2 in the Federal Register, shall not be taken until the plan
3 amendment or revision is final.”.

4 **SEC. 205. FULLY ALLOCATED COSTS ANALYSIS.**

5 Section 6(g) of the Forest and Rangeland Renewable
6 Resources Planning Act of 1974 (16 U.S.C. 1604(g)) is
7 amended by striking “resource.” and inserting in lieu
8 thereof “resource;” in paragraph (3)(F)(v), and adding a
9 new paragraph (4) as follows:

10 “(4) specifying that, in the presentation of al-
11 ternative land management plans, plan amendments,
12 or plan revisions, the Secretary shall analyze the
13 fully allocated cost including foregone revenues, ex-
14 pressed as a user fee or cost-per-beneficiary, of each
15 noncommodity output proposed by each alternative;
16 and”.

17 **SEC. 206. MINIMUM MANAGEMENT REQUIREMENTS.**

18 (a) Section 6(g) of the Forest and Rangeland Renew-
19 able Resources Planning Act of 1974 (16 U.S.C. 1604(g))
20 is amended by adding a new paragraph (5) as follows:

21 “(5) specifying the role, if any, of minimum
22 management requirements in the planning process
23 and providing procedures for the adoption thereof,
24 including the following requirements:

1 “(A) A ‘minimum management require-
2 ment’ is any directive adopted at the regional or
3 forest level that guides the development, analy-
4 sis, approval, implementation, monitoring or
5 evaluation of land management plans. The issu-
6 ance of minimum management requirements is
7 discretionary except where required by this Act.

8 “(B) The Secretary shall provide for public
9 participation comparable to that required by
10 subsection (d) of this section in the develop-
11 ment of any minimum management require-
12 ment.

13 “(C) A minimum management requirement
14 to achieve a level of timber sales based on goals
15 developed pursuant to section 4, and the re-
16 quirements of section (6)(e) (3) and (4) of this
17 Act shall be established for each unit of the Na-
18 tional Forest System in the applicable land and
19 resource management plan.

20 “(D)(i) Where a particular land area is
21 identified in a land and resource management
22 plan as contributing to the minimum manage-
23 ment requirement for timber sales, no manage-
24 ment action shall preclude the achievement, on

1 a decadal basis, of the minimum management
2 requirement designated for that particular area.

3 “(ii) The Secretary shall offer, on a
4 decadal basis, the full minimum management
5 requirement for timber sales specified in each
6 land and resource management plan. Not less
7 than 25 per centum of the decadal minimum
8 management requirement shall be awarded in
9 any three consecutive years during the term of
10 the plan.”.

11 (b) Section 202 of the Federal Land Policy and Man-
12 agement Act of 1976 (43 U.S.C. 1712) is amended by
13 adding at the end thereof the following new subsection (i):

14 “(i) A minimum decadal level of timber sale volume
15 based on the requirements of subsection (g) of this section
16 shall be established in each land use plan for the area of
17 the public lands to which the plan applies. The Secretary
18 shall offer, on a decadal basis, the full decadal minimum
19 level of timber sale volume specified in the land use plan.
20 Not less than 25 per centum of the decadal minimum level
21 of timber sale volume shall be awarded in any three con-
22 secutive years during the term of the land use plan.”.

23 **SEC. 207. PHASE-IN OF OUTPUT CHANGES.**

24 (a) Section 6(j) of the Forest and Rangeland Renew-
25 able Resources Planning Act of 1974 (16 U.S.C. 1604(j))

1 is amended by changing the period at the end thereof to
2 a colon and adding the following: "*Provided, That, to*
3 *maintain the stability of any community or economic en-*
4 *terprise economically dependent upon a unit of the Nation-*
5 *al Forest System, as defined by regulation pursuant to*
6 *subsection (e)(3) of this section, and to avoid the disloca-*
7 *tion resulting from abrupt changes in management of any*
8 *such unit in the transition to a new land management*
9 *plan, amendment thereto, or revision thereof, the Secre-*
10 *tary shall, upon adoption of a new plan, amendment, or*
11 *revision, phase in through four equal annual increments*
12 *any decrease or increase in any commodity output under*
13 *the plan, amendment, or revision greater than 10 per cen-*
14 *tum per year in comparison to the average output of the*
15 *commodity from the unit to which the plan applies for the*
16 *five consecutive fiscal years preceding the year in which*
17 *the plan, amendment, or revision is adopted (as measured*
18 *by volume offered for lease or sale)."*

19 (b) Section 202 of the Federal Land Policy and Man-
20 agement Act of 1976 (43 U.S.C. 1712) is amended by
21 adding at the end thereof the following new subsection (j):

22 "(j) To maintain the stability of any community or
23 economic enterprise economically dependent upon public
24 lands, as defined by regulation pursuant to subsection (g)
25 of this section, and to avoid the dislocation resulting from

1 abrupt changes in the management of such public lands
2 in the transition to a new land use plan, amendment there-
3 to, or revision thereof, the Secretary shall, upon adoption
4 of a new plan, amendment, or revision, phase in through
5 four equal annual increments any decrease or increase in
6 any commodity output under the plan, amendment, or re-
7 vision greater than 10 per centum per year in comparison
8 to the average output of the commodity from the area to
9 which the plan applies for the five consecutive fiscal years
10 preceding the year in which the plan, amendment or revi-
11 sion is adopted (as measured by volume offered for lease
12 or sale).”.

13 **SEC. 206. PLAN MONITORING AND MAINTENANCE.**

14 (a) Section 6(i) of the Forest and Rangeland Renew-
15 able Resources Planning Act of 1974 (16 U.S.C. 1604(i))
16 is amended by inserting “(1)” between “(i)” and “Re-
17 source” and adding a new paragraph (2) as follows:

18 “(2) The Secretary shall certify in writing as a part
19 of the decision on each implementing action that such de-
20 cision contributes to or, at a minimum, does not preclude
21 achievement of the goals and outputs in the applicable
22 land management plan. The Secretary shall monitor regu-
23 larly forest management and forest goals and outputs to
24 ensure that a land management plan is not constructively
25 changed through a pattern of implementing actions or fail-

1 ures to take implementing actions that is inconsistent with
2 the plan. If the Secretary finds the plan has been so
3 changed, the Secretary shall direct that corrective imple-
4 menting actions be undertaken to restore plan consistency
5 or that the plan be amended.”.

6 (b) Section 202 of the Federal Land Policy and Man-
7 agement Act of 1976 (43 U.S.C. 1712) is amended by
8 adding at the end thereof the following new subsection (k):

9 “(k) The Secretary shall certify in writing as part of
10 each management decision to implement a land use plan
11 developed, amended, or revised under this section that
12 such decision contributes to or, at a minimum, does not
13 preclude achievement of the goals and outputs in such
14 plan. The Secretary shall monitor regularly management
15 of and outputs from the area to which each land use plan
16 applies to ensure that each such plan is not constructively
17 changed through a pattern of implementing actions or fail-
18 ures to take implementing actions that is inconsistent with
19 the plan. If the Secretary finds the plan has been so
20 changed, the Secretary shall direct that corrective imple-
21 menting actions be undertaken to restore plan consistency
22 or that the plan be amended.”.

1 **SEC. 209. CITIZEN PETITIONS FOR AMENDMENT OR REVI-**
2 **SION.**

3 (a) Section 6 of the Forest and Rangeland Renewable
4 Resources Planning Act of 1974 (16 U.S.C. 1604) is
5 amended by adding at the end thereof a new subsection
6 (n) as follows:

7 “(n)(1) A person may petition the Secretary for an
8 amendment or revision of and land and resource manage-
9 ment plan or of any document that establishes a minimum
10 management requirement either in units of the National
11 Forest System within a Forest Service region or for a par-
12 ticular unit if he or she alleges and relies on new informa-
13 tion, law, or regulation as defined in this subsection to
14 support the amendment or revision. A person who wishes
15 to challenge a plan or an action implementing a plan alleg-
16 ing new information, law, or regulation must petition the
17 Secretary for an amendment or revision of the plan in lieu
18 of filing an administrative appeal on such plan or action.
19 A person who wishes to challenge a minimum management
20 requirement document alleging new information, law, or
21 regulation must first petition the Secretary for an amend-
22 ment or revision of the document.

23 “(2) The petition shall be filed in accordance with
24 regulations adopted by the Secretary, which shall require
25 the Secretary to seek and consider the advice of the Secre-
26 tary, as defined in section 3(15) of the Endangered Spe-

cies Act (16 U.S.C. 1532(15)), if the petition concerns a species listed, or a critical habitat designated, pursuant to section 4 of the Endangered Species Act (16 U.S.C. 1533). The Secretary shall accept or deny the petition in writing within 60 days of receipt. If the Secretary accepts the petition, the amendment or revision process shall begin on the date of the acceptance. If the Secretary rejects the petition, the petitioner may seek immediate judicial review in accordance with subsections (p) and (q) of this section unless the Secretary provides for further administrative review of the decisions on petitions.

“(3) For purposes of this section, ‘new information’ means information related to the plan, action, or document that was not known to and considered by the Secretary in the preparation of the plan or document and ‘law, or regulation’ means any law or regulation not in effect when the plan or document was adopted.”.

(b) Section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) is amended by adding at the end thereof the following new subsection (1):

“(1) A person may petition the Secretary for an amendment or revision of any land use plan if the person alleges and relies on new information, law, or regulation as defined in this subsection. A person who wishes to challenge a plan or an action imple-

1 menting a plan alleging new information, law, or
2 regulation must petition the Secretary for an amend-
3 ment or revision of the plan in lieu of filing an ad-
4 ministrative appeal of such plan or action. The peti-
5 tion shall be filed in accordance with regulations
6 adopted by the Secretary, which shall require the
7 Secretary to seek and consider the advice of the Sec-
8 retary, as defined in section 3(15) of the Endan-
9 gered Species Act (16 U.S.C. 1532(15)) if the peti-
10 tion concerns a species listed, or critical habitat des-
11 ignated, pursuant to section 4 of the Endangered
12 Species Act (16 U.S.C. 1533). The Secretary shall
13 accept or deny the petition in writing within 60 days
14 of receipt. If the Secretary accepts the petition, the
15 amendment or revision process shall begin on the
16 date of the acceptance. If the Secretary rejects the
17 petition, the petitioner may seek immediate judicial
18 review unless the Secretary provides for further ad-
19 ministrative review of decisions on petitions. For
20 purposes of this subsection, 'new information' means
21 information related to the plan or action that was
22 not known to and considered by the Secretary in the
23 preparation of the plan and 'law, or regulation'
24 means any law or regulation not in effect when the
25 plan was adopted."

1 **PART B—IMPLEMENTING PLANS**

2 **SEC. 210. ADMINISTRATIVE APPEALS AND PETITIONS.**

3 Section 6 of the Forest and Rangeland Renewable
4 Resources Planning Act of 1974 (16 U.S.C. 1604) is
5 amended by adding at the end thereof a new subsection
6 (o) as follows:

7 “(o) Administrative appeal of a land and resource
8 management plan, an implementing action under a land
9 and resource management plan, or document adopted by
10 the Secretary pursuant to this section shall be in accord-
11 ance with rules promulgated by the Secretary, including
12 the following additional provisions:

13 “(1) Standing to bring an administrative appeal
14 shall be available only to persons who have submit-
15 ted written or oral comment during the preparation
16 of the plan, amendment, revision, document or ac-
17 tion on the issue or issues for which administrative
18 review is sought.

19 “(2) A person who wishes to challenge a land
20 and resource management plan, implementing ac-
21 tion, or document that establishes a minimum man-
22 agement requirement either in a unit of the National
23 Forest System or within a Forest Service region al-
24 leging or relying on new information, law, or regula-
25 tion must first petition the Secretary for an amend-

1 ment or revision of the plan or document in accord-
2 ance with subsection (n) of this section.

3 “(3) No administrative stay pending appeal or
4 petition filed under this subsection shall extend be-
5 yond, or be imposed after, the conclusion of the ap-
6 plicable period for filing suit in subsection (p)(2),
7 (q)(2), or (r)(2) of this section.

8 “(4) Failure by the Secretary to issue a final
9 decision on appeal or petition by the prescribed reg-
10 ulatory deadline, not including any extensions there-
11 to that may be granted by the Secretary, shall be
12 deemed to be a denial of the appeal or petition for
13 purposes of this section.”.

14 **SEC. 211. JUDICIAL REVIEW OF PLANS.**

15 Section 6 of the Forest and Rangeland Renewable
16 Resources Planning Act of 1974 (16 U.S.C. 1604) is
17 amended by adding at the end thereof a new subsection
18 (p) as follows:

19 “(p) Suits to challenge a land and resource manage-
20 ment plan, amendment thereof, or revision thereto, adopt-
21 ed by the Secretary pursuant to this section, or a decision
22 by the Secretary not to amend or revise such a plan pursu-
23 ant to subsection (n) of this section, shall be filed in the
24 United States court of appeals for the circuit in which the
25 unit of the National Forest System to which the plan ap-

1 plies is located. Such court shall have jurisdiction to hear
2 and determine any suit brought as provided in this subsec-
3 tion, subject to the terms and restrictions of this sub-
4 section:

5 “(1) Standing to obtain review shall be avail-
6 able only to persons who have—

7 “(A) participated in the preparation of the
8 plan amendment or revision, or petition for plan
9 amendment or revision, through written or oral
10 comment on the issue or issues for which judi-
11 cial review is sought; and

12 “(B) exhausted their administrative reme-
13 dies.

14 “(2) Any suit under this subsection must be
15 filed not more than 90 days after the final decision
16 of the Secretary on the relevant administrative ap-
17 peal of the plan, amendment, revision, or petition.
18 The plan or any portion thereof, as finally adopted,
19 shall not thereafter be reviewable as a part of any
20 other action under this Act or any other provision of
21 law or regulation in existence at the conclusion of
22 such 90-day period.

23 “(3) A suit under this subsection shall not al-
24 lege or rely upon new information, law, or regulation
25 as defined in subsection (n) of this section unless the

1 party has petitioned the Secretary pursuant to sub-
2 section (n) of this section, the Secretary has denied
3 the petition, and the party has exhausted any ad-
4 ministrative appeal rights concerning that denial.

5 “(4) The record upon review shall be limited to
6 the administrative record compiled in accordance
7 with this Act and such additional written evidence as
8 the court shall permit.”.

9 **SEC. 212. JUDICIAL REVIEW OF MINIMUM MANAGEMENT**
10 **REQUIREMENTS.**

11 Section 6 of the Forest and Rangeland Renewable
12 Resources Planning Act of 1974 (16 U.S.C. 1604) is
13 amended by adding at the end thereof a new subsection
14 (q) as follows:

15 “(q)(1) Issuance of any document that establishes a
16 minimum management requirement either in units of the
17 National Forest System within a Forest Service region or
18 for a particular unit (other than a land and resource man-
19 agement plan) shall be considered a final agency action.
20 Suits to challenge such document, or a decision by the Sec-
21 retary not to amend or revise such document pursuant to
22 subsection (n) of this section, shall be filed in the United
23 States court of appeals for the circuit in which the units
24 or unit to which the document applies is located. Such
25 court shall have jurisdiction to hear and determine any

1 suit brought as provided in this subsection, subject to the
2 terms and restrictions of this subsection. Standing to ob-
3 tain review shall be available only to persons who have—

4 “(A) participated in the preparation of such
5 document through written or oral comment on the
6 issue or issues for which judicial review is sought, if
7 notice and opportunity for public comment was pro-
8 vided; and

9 “(B) exhausted their administrative remedies.

10 “(2) Any suit under this subsection must be filed not
11 more than 60 days after the final decision of the Secretary
12 on any administrative appeal of the document. The docu-
13 ment, or any portion thereof, as finally adopted shall not
14 thereafter be reviewable as part of any other action under
15 this Act or any other provision of law or regulation in ex-
16 istence at the conclusion of such 60-day period.

17 “(3) A suit under this subsection shall not allege or
18 rely upon new information, law, or regulation as defined
19 in subsection (n) of this section unless party has petitioned
20 the Secretary pursuant to subsection (n) of this section,
21 the Secretary has denied the petition, and the party has
22 exhausted any administrative appeal rights concerning
23 that denial.

24 “(4) The record upon review shall be limited to the
25 administrative record compiled in accordance with this Act

1 “(s)(1) A suit governed by this section or any appeal
2 of the decision on such suit shall be assigned for hearing
3 at the earliest possible date and shall take precedence over
4 all other matters pending on the docket of the court at
5 that time except for criminal cases.

6 “(2) The court shall render its final decision and dis-
7 solve any restraining order or preliminary injunction rela-
8 tive to any suit governed by this section or appeal of deci-
9 sion on such suit within the number of days specified in
10 clauses (A) through (C) of this paragraph from the date
11 such suit or appeal is filed, unless the court determines
12 that a longer period of time is required to satisfy the re-
13 quirements of the United States Constitution:

14 “(A) A land and resource management plan
15 that is the subject of subsection (p), 180 days.

16 “(B) A document that is the subject of subsec-
17 tion (q), 120 days.

18 “(C) An implementing action that is the subject
19 of subsection (r), 60 days: *Provided, however, That*
20 the period shall be 30 days in the case of an action
21 to offer or award salvage timber or such other action
22 that is determined by the Secretary to be an emer-
23 gency action.”.

1 **SEC. 215. STATUS OF PLANS.**

2 Section 6(c) of the Forest and Rangeland Renewable
3 Resources Planning Act of 1974 (16 U.S.C. 1604(c)) is
4 amended by inserting "(1)" between "(c)" and "The" and
5 adding a new paragraph (2) as follows:

6 "(2) When a unit of the National Forest System is
7 subject to a plan developed in accordance with this Act,
8 such unit shall be managed under the most recent initial,
9 amended, or revised version of that plan that has been
10 adopted as final. If at any time a final version of a plan
11 or portion thereof is enjoined by court order from oper-
12 ation, the management of the unit shall continue under
13 the immediately previous final version of that plan or rele-
14 vant portion thereof, which shall not be subject to chal-
15 lenge or injunction except as provided in this section."

16 **SEC. 216. TIERING OF ENVIRONMENTAL DOCUMENTATION.**

17 Section 6 of the Forest and Rangeland Renewable
18 Resources Planning Act of 1974 (16 U.S.C. 1604) is
19 amended by adding at the end thereof a new subsection
20 (t) as follows:

21 "(t)(1) Where documentation pursuant to section
22 102(2)(C) of the National Environment Policy Act of
23 1969 (42 U.S.C. 4332(2)(C)) is required on an action im-
24 plementing a land and resource management plan, such
25 documentation shall be tiered to the final environmental
26 impact statement, as amended or supplemented, on the

1 plan. The documentation on the action shall incorporate
2 by reference the relevant analysis of the final environmen-
3 tal impact statement, including cumulative impact analy-
4 sis, and shall focus on any site-specific or project-specific
5 environmental consequences which are required to be ana-
6 lyzed and have not been analyzed, or which are substan-
7 tially different from or greater than the general environ-
8 mental consequences which have been analyzed, in the
9 final environmental impact statement.

10 “(2) An environmental assessment, as defined by the
11 Council on Environmental Quality, shall be the most com-
12 prehensive level of environmental documentation required
13 for an action implementing a plan except when the Secre-
14 tary, in his discretion in accordance with regulation, deter-
15 mines that the nature or scope of potential environmental
16 consequences of an implementing action is substantially
17 different from or greater than the nature or scope of the
18 consequences considered in the final environmental impact
19 statement for the plan.”.

20 **SEC. 217. BUDGET DISCLOSURES.**

21 Section 8(b) of the Forest and Rangeland Renewable
22 Resources Planning Act of 1974 (16 U.S.C. 1060(b)) is
23 amended by inserting the following after the first sen-
24 tence: “Commencing with the fiscal budget for the first
25 full fiscal year following enactment of this sentence, such

1 requests shall include as an appendix to the budget a
2 statement of what funds would be required to achieve 100
3 per centum of annual outputs specified in, or otherwise
4 implement fully, the land and resource management plan
5 for each unit of the National Forest System.”.

6 **SEC. 218. REGULATIONS.**

7 Not later than twelve months from the date of enact-
8 ment of this Act, the Secretary of Agriculture and the Sec-
9 retary of the Interior shall promulgate regulations to carry
10 out the purposes and provisons of this title.

11 **TITLE III—PROVIDING AN INTERIM**
12 **PROGRAM**

13 **SEC. 301. PURPOSES.**

14 The purposes of this title are to provide for a five-
15 year basic and applied research program on old growth
16 forest on National Forest Lands and Public Lands to bet-
17 ter understand its values and processes and to permit its
18 active management to maintain and enhance those values
19 and processes, and to ensure the protection of any areas
20 of ecologically-significant old growth forest that might be
21 considered for designation to the Old Growth Forest Re-
22 serve, the protection of the Northern Spotted Owl and ad-
23 herence to the Endangered Species Act (16 U.S.C. 1531
24 et seq.), and the provision of an adequate supply of timber,
25 on National Forest Lands and Public Lands during the

1 interim period from the date of enactment of this Act until
2 the Reserve is designated and the final new or revised For-
3 est Plans are adopted pursuant to title I of this Act.

4 **SEC. 302. DURATION OF THE INTERIM PROGRAM.**

5 The interim program established pursuant to this
6 title shall be effective upon the date of enactment of this
7 Act and shall terminate three full fiscal years from such
8 date for all units of National Forest Lands and Public
9 Lands to which apply final revised or new Forest Plans
10 adopted pursuant to section 102. The interim program
11 shall continue to apply thereafter to any unit for which
12 no applicable final revised or new Forest Plan has been
13 adopted until the end of the fiscal year in which such
14 adoption occurs. If any final revised or new Forest Plan
15 is challenged by administrative appeal or litigation, the
16 unit to which such Forest Plan applies shall revert to man-
17 agement under the interim program until the end of the
18 fiscal year in which any and all such appeals and litigation
19 are exhausted.

20 **SEC. 303. SUSPENSION OF CERTAIN PLAN ELEMENTS.**

21 In order to provide the protection for the areas of
22 old growth forest required by section 305 of this Act and
23 ensure the offering of timber sales required by section 304
24 of this Act, all elements of any plans for the management
25 of National Forest Lands and Public Lands (i) proscribing

1 timber harvesting outside such areas, or (ii) permitting
2 timber harvesting, road construction, or mineral or geo-
3 thermal leasing inside such areas, shall be suspended dur-
4 ing the duration of the interim program established pursu-
5 ant to this title.

6 **SEC. 304. INTERIM TIMBER SALES PROGRAMS.**

7 (a) Subject only to the provisions of this title and not-
8 withstanding any provision of law or order of a court to
9 the contrary, for each full fiscal year in which the interim
10 program established pursuant to this title is in effect:

11 (1) the Secretary of Agriculture shall offer for
12 sale at least board feet per year from Feder-
13 al lands managed by the Forest Service in Regions
14 5 and 6 (Oregon, Washington and California), of
15 which at least board feet per year shall be
16 offered from the National Forest Lands;

17 (2) the Secretary of the Interior shall offer for
18 sale at least board feet from Federal lands
19 managed by the Bureau of Land Management in Or-
20 egon, Washington and California, of which at least
21 board feet shall be offered from the Public
22 Lands;

23 (3) the Secretaries shall allocate the sales vol-
24 umes for each fiscal year established in clauses (1)
25 and (2) of this section among each national forest

1 and Bureau of Land Management administrative
2 district at least seven months prior to the beginning
3 of such fiscal year;

4 (4) for any portion of a fiscal year prior to the
5 first full fiscal year after enactment of this Act, the
6 sales volume required to be offered by this section
7 shall be the product of the relevant volume in clause
8 (1) or (2) of this section times the fraction of the
9 fiscal year represented by the portion thereof during
10 which the interim program is in effect; and

11 (5) for any national forest or Bureau of Land
12 Management administrative district which remains
13 subject to the interim program after three full fiscal
14 years from the date of enactment of this Act, the
15 annual sales volume thereafter until the interim pro-
16 gram is no longer applicable shall be the volume al-
17 located to that forest or district in the third full fis-
18 cal year.

19 (b) For purpose of subsection (a) of this section, the
20 timber sale level for any annual interim timber sale pro-
21 gram which may undergo review pursuant to section 7(e)-
22 (1) of the Endangered Species Act (16 U.S.C. 1536(e)-
23 (1)) in accordance with section 306(b) of this Act shall
24 be the level established by or resulting from that review

1 in lieu of the level provided for that program in subsection
2 (a).

3 **SEC. 306. INTERIM OLD GROWTH FOREST PROTECTION.**

4 (a) No timber sale may be offered, road constructed,
5 or mineral or geothermal lease sold by either Secretary
6 on any National Forest Lands and Public Lands subject
7 to the interim program established pursuant to this title
8 III—

9 (1) which are located within unfragmented
10 areas of old growth forest containing more than
11 acres each of National Forest Lands or
12 Public Lands within the habitat conservation areas
13 identified in Appendix Q of the May 1990 report of
14 the Scientific Committee to Address the Conserva-
15 tion of the Northern Spotted Owl specified in section
16 318(b)(6)(B) of Public Law 101-121 (103 Stat.
17 747); or

18 (2) which are located within a radius of
19 any active nest site of the Northern Spotted Owl.

20 (b) The lands subject to this section shall be identi-
21 fied by the Secretaries, after an opportunity for public
22 comment, on a map or maps on file for public inspection
23 in the offices of the Chief of the Forest Service and the
24 Director of the Bureau of Land Management and each
25 office of the Forest Service and Bureau of Land Manage-

1 ment responsible for administering the National Forest
2 Lands and Public Lands.

3 **SEC. 306. ENDANGERED SPECIES ACT AND NATIONAL ENVI-**
4 **RONMENTAL POLICY ACT COMPLIANCE.**

5 (a) For each of the first three full fiscal years after
6 enactment of this Act, each Secretary shall prepare an en-
7 vironmental impact statement pursuant to section
8 102(2)(C) of the National Environmental Policy Act (42
9 U.S.C. 4322(2)(C)) on the annual interim timber sales
10 program under the Secretary's jurisdiction established by
11 section 304 (1) and (2) of this Act, and shall submit such
12 program for consultation with the Fish and Wildlife Serv-
13 ice pursuant to section 7 of the Endangered Species Act
14 (16 U.S.C. 1536), no later than six months prior to the
15 beginning of the fiscal year. Not later than six months
16 prior to the beginning of each fiscal year thereafter, each
17 Secretary shall prepare an environmental impact state-
18 ment on, and submit for consultation, any annual interim
19 timber sales program under the Secretary's jurisdiction re-
20 quired by section 304(5) of this Act.

21 (b) If, during consultation on an annual interim tim-
22 ber sales program required by subsection (a) of this sec-
23 tion, jeopardy of any listed species or adverse modification
24 of any designated critical habitat is found under section
25 7(b) of the Endangered Species Act (16 U.S.C. 1536(b)),

1 the Secretary responsible for the program shall consider
2 any reasonable and prudent alternatives suggested in the
3 consultation that are consistent with the provisions of this
4 title and that offer the sales volume required for the pro-
5 gram in section 304 of this Act. If the Secretary deter-
6 mines that no such reasonable and prudent alternative ex-
7 ists, the Secretary shall apply for review of the program
8 pursuant to section 7(e)-(1) of the Endangered Species
9 Act (16 U.S.C. 1536(e)-(1)).

10 **SEC. 307. JUDICIAL REVIEW.**

11 Notwithstanding any other provision of law to the
12 contrary:

13 (1) Any action taken or decision made by a
14 Federal agency pursuant to this title (other than an
15 action or decision defined as or considered to be pro-
16 posed or draft under the Administrative Procedure
17 Act, Forest and Rangeland Renewable Resources
18 Planning Act of 1974, Federal Land Policy and
19 Management Act of 1976, National Environmental
20 Policy Act, or other applicable law) shall be deemed
21 to be a final agency action or decision and shall not
22 be subject to any administrative appeal or adminis-
23 trative stay.

24 (2) A suit challenging any such action or deci-
25 sion must be filed in the United States Court of Ap-

1 peals for the Ninth Circuit not later than thirty days
2 after the date of such action or decision. Such court
3 shall have jurisdiction to hear and determine any
4 suit brought in accordance with this section.

5 (3) No temporary restraining order or prelimi-
6 nary injunction may be issued in a suit governed by
7 this section after 60 days from the date such suit is
8 filed. If a temporary restraining order or preliminary
9 injunction is issued within such 60-day period, the
10 court shall render its final decision and dissolve any
11 remaining preliminary injunction on or before the
12 final day of such period.

13 (4) The grounds for any litigation challenging
14 an annual interim timber sales program or any por-
15 tion thereof pursuant to this title shall be limited
16 solely to compliance with the provisions of this title.

17 **SEC. 303. OLD GROWTH FOREST RESEARCH PROGRAM.**

18 (a) Not later than six months from the date of enact-
19 ment of this Act, the Secretaries shall establish an Old
20 Growth Forest Research Program, which shall include
21 (but need not be limited to) each of the following com-
22 ponents:

23 (1) basic research on ecosystems of, processes
24 in, and species associated with old growth forest on
25 National Forest Lands and Public Lands;

1 (2) the development and testing of ecologically-
2 sensitive forest management practices at the stand
3 and landscape levels on National Forest Lands and
4 Public Lands;

5 (3) the development and testing of particular
6 timber harvesting methods which may be employed
7 in, and be consonant with maintenance of the
8 noncommodity values of, the ecologically-significant
9 old growth forest areas to be designated to the Old
10 Growth Forest Reserve;

11 (4) determination of methods of supplying the
12 economy, and particularly communities dependent on
13 resources of the National Forest Lands and Public
14 Lands, with such resources on a sustained basis; and

15 (5) development of techniques for regenerating
16 old growth forest on National Forest Lands and
17 Public Lands.

18 (b) Not later than thirty months from the date of
19 enactment of this Act, the Secretaries shall, taking into
20 account work performed in the Old Growth Forest Re-
21 search Program, prepare and publish in the Federal Reg-
22 ister prescriptions and guidelines for timber harvesting in
23 ecologically-significant old growth forest areas to be desig-
24 nated to the Reserve, including techniques associated with

1 New Forestry, which maintain or enhance the non-com-
2 modity resource values associated with such areas.

3 (c) The Old Growth Forest Research Program shall
4 terminate at the end of five full fiscal years from the date
5 of enactment of this Act.

6 **TITLE IV—ECONOMIC ADJUSTMENT**

7 **SEC. 401. PURPOSES.**

8 The purposes of this title are to develop an organiza-
9 tional structure and a program to provide grants and ben-
10 efit payments to, and promote economic diversification
11 and stability for, communities which and workers who are
12 economically dependent on the National Forest Lands and
13 Public Lands and are adversely impacted by timber supply
14 which is declining as set forth in the Findings of this Act
15 and may decline further in response to the interim and
16 long-term programs established by this Act.

17 **SEC. 402. SPECIAL ECONOMIC ADJUSTMENT FUND.**

18 (1) Effective for six full fiscal years after the date
19 of enactment of this Act, per centum of
20 the Federal portion of all moneys received each fiscal year
21 from the sale of timber and other forest products from
22 the Federal lands shall be deposited into the Treasury of
23 the United States and shall constitute a special fund which
24 shall be made available without further appropriation to
25 the Timber Readjustment Commission established pursu-

1 ant to section 403 of this Act for grants and benefit pay-
2 ments pursuant to section 407 of this Act and for the op-
3 erations of the Commission and the Timber Readjustment
4 Advisory Panel established pursuant to section 405 of this
5 Act.

6 (b) For the purposes of subsection (a) of this section
7 the term "moneys received"—

8 (1) has the same meaning given such term
9 under the Act of May 23, 1908 (16 U.S.C. 500) and
10 section 13 of the Act of March 1, 1911 (16 U.S.C.
11 500); and

12 (2) means—

13 (A) moneys deposited into the Oregon and
14 California land-grant fund pursuant to the Act
15 of August 28, 1937 (Chapter 876, 50 Stat.
16 874; 43 U.S.C. 1181a et seq.);

17 (B) moneys deposited into the Coos Bay
18 Wagon Road grant fund pursuant to the Act of
19 May 24, 1939 (Chapter 144, 53 Stat. 753; 43
20 Stat. 1181f-1 et seq.); and

21 (C) moneys received from the disposal of
22 timber and other forest products pursuant to
23 the Act of July 31, 1947 (30 U.S.C. 601 et
24 seq.).

1 (c) Nothing in this section shall be construed as
2 modifying or altering payments to States under the Act
3 of May 23, 1908 and section 13 of the Act of March 1,
4 1911 (16 U.S.C. 500), the Act of August 28, 1937 (43
5 U.S.C. 1181f et seq.), and the Act of May 24, 1939 (43
6 U.S.C. 1181f-1 et seq.).

7 **SEC. 403. TIMBER ECONOMIC ADJUSTMENT COMMISSION.**

8 There is hereby established the three-member Timber
9 Economic Adjustment Commission to perform the func-
10 tions prescribed in section 407 of this Act. Within sixty
11 days of the date of enactment of this Act, the governors
12 of California, Oregon, and Washington shall each appoint
13 a commissioner to serve on the Commission. Any vacancy
14 on the Commission shall be filled in the same manner as
15 the original appointment was made. The chair of the Com-
16 mission shall be elected annually from among the commis-
17 sioners by majority vote thereof.

18 **SEC. 404. ADMINISTRATIVE AUTHORITY.**

19 (a) The Commission shall have the authority to ap-
20 point, fix compensation for, and assign and delegate duties
21 to an Executive Director and such other employees, and
22 procure such temporary and intermittent services, as the
23 Commission deems necessary to fulfill its functions pursu-
24 ant to this title.

1 (b) The Commission shall adopt such internal rules
2 of procedure as it deems necessary. All Commission meet-
3 ings shall be open to the public, but may be closed tempo-
4 rarily for discussion of personnel and budgetary matters.
5 Notice of Commission meetings shall be published in news-
6 papers of general circulation in California, Oregon, and
7 Washington.

8 (c) Upon the request of the Commission, Federal
9 agencies are authorized to provide technical assistance on
10 a nonreimbursable basis to the Commission to assist it in
11 fulfilling its functions pursuant to this section. The Com-
12 mission is authorized to use, with their consent, the serv-
13 ices, equipment, personnel, and facilities of Federal, State,
14 and other agencies with or without reimbursement. Each
15 Federal agency is authorized and directed to cooperate
16 fully in making its services, equipment, personnel, and fa-
17 cilities available to the Commission.

18 **SEC. 405. TIMBER ECONOMIC ADJUSTMENT ADVISORY**
19 **PANEL.**

20 In performing its functions pursuant to section 407
21 of this Act, the Commission shall consult with and consid-
22 er the recommendations of the nine-member Timber Eco-
23 nomic Adjustment Advisory Panel. Each Governor shall
24 appoint three members to the Panel: one from the forest
25 products industry, one from organized labor, and one from

1 the general public. The term of each member of the Panel
2 shall be one year, subject to reappointment. The chair of
3 the Panel shall be elected from among its members by ma-
4 jority vote thereof.

5 **SEC. 406. COMPENSATION AND EXPENSES.**

6 (a) Commissioners who are not otherwise employed
7 may be compensated at a rate fixed by the President but
8 not in excess of the maximum rate of pay for grade level
9 IV of the Executive Schedule under section 5316 of title
10 5 of the United States Code.

11 (b) The members of the Commission and the Panel
12 while away from their homes or regular places of business
13 in performance of services for the Commission or Panel,
14 shall be allowed travel expenses, including per diem in lieu
15 of subsistence, in the same manner as persons employed
16 intermittently in the Government Service are allowed ex-
17 penses under section 5703(b) of title 5 of the United
18 States Code.

19 **SEC. 407. PURPOSE OF ECONOMIC ADJUSTMENT GRANTS**
20 **AND BENEFIT PAYMENTS.**

21 The Commission shall distribute from the special
22 fund established in section 402 of this Act monies in the
23 form of grants or benefit payments to communities which
24 or workers who meet the eligibility requirements of section
25 408 of this Act. The grants and benefit payments shall

1 be provided for, but not be limited to, the following pur-
2 poses:

3 (1) to assist any eligible community to achieve
4 economic diversity and diminish dependency on for-
5 est products from old growth forest on National
6 Forest Lands and Public Lands;

7 (2) to provide short-term and longer term re-
8 training and adjustment assistance to any eligible
9 worker;

10 (3) to supplement unemployment insurance
11 benefits and extend income maintenance payments
12 for any eligible worker whose eligibility for unem-
13 ployment insurance benefits is exhausted and who is
14 enrolled in a training or education program which
15 the Commission determines to be bona fide;

16 (4) to provide base level health care insurance
17 coverage for an eligible worker, and his or her family
18 members, who is enrolled in a training or education
19 program which the Commission determines to be
20 bona fide; and

21 (5) to defray job search expenses and relocation
22 expenses for any eligible worker who the Commission
23 determines cannot reasonably be expected to secure
24 employment comparable to his or her previous em-

1 employment in the commuting area in which the worker
2 resides.

3 **SEC. 406. ELIGIBILITY FOR ECONOMIC ADJUSTMENT**
4 **GRANTS OR BENEFITS PAYMENTS.**

5 To be eligible for a grant or benefit payment pursu-
6 ant to section 405 of this Act—

7 (1) a community must—

8 (A) be a “community economically depend-
9 ent on a unit of the National Forest System,”
10 as defined pursuant to section 202(a) of this
11 Act, which unit must be a unit of the National
12 Forest Lands, as defined in section 3(a)(5) of
13 this Act, or a “community economically depend-
14 ent on public lands,” as defined pursuant to
15 section 202(b) of this Act, which unit must be
16 a unit of the Public Lands, as defined in sec-
17 tion 3(a)(7) of this Act; and

18 (B) have associated with it a wood prod-
19 ucts plant which closed or reduced its work
20 force by percent within two years be-
21 fore, and remains closed or continues with such
22 reduction in force upon, the date of enactment
23 of this Act, or closes or reduces its work force
24 by percent after the date of enactment
25 of this Act and remains in such condition for

1 months after the date of closure or re-
2 duction in work force; and

3 (2) a worker must—

4 (A) have been in employment related to
5 wood products or timber harvesting and have
6 been terminated or laid off from such employ-
7 ment within two years before, and be unem-
8 ployed on, the date of enactment of this Act, or
9 be terminated or laid off from such employment
10 after the date of enactment of this Act and be
11 unlikely to return to such employment within
12 months thereafter; or

13 (B) have been employed or self-employed
14 in an occupation not directly related to wood
15 products or timber harvesting in a community
16 as defined in clause (1) of this section, have
17 been terminated from such employment after
18 the date of enactment of this Act, and be un-
19 likely to return to such employment within
20 months thereafter.

21 **SEC. 409. NOTICE OF SECRETARIES.**

22 The Secretaries shall—

23 (1) provide timely information to the Commis-
24 sion on any Federal action with respect to managing
25 the National Forest Lands and Public Lands which

1 may have a substantial local or regional impact on
2 employment;

3 (2) where feasible, identify the location of the
4 employment which will be affected by such Federal
5 action, and

6 (3) provide the Commission such other informa-
7 tion concerning such Federal action as is available
8 to the Secretaries and as the Commission may re-
9 quire.

10 **SEC. 410. TERMINATION OF COMMISSION AND PANEL; COM-**
11 **MISSION REPORT.**

12 The Commission and Panel shall terminate six full
13 fiscal years from the date of enactment of this Act. No
14 later than six months prior to termination of the Commis-
15 sion, the Commission shall submit in writing to the Con-
16 gress and the governors of California, Oregon, and Wash-
17 ington a report on the accomplishments of the Commis-
18 sion, the economic conditions of communities and employ-
19 ment in the region in which National Forest Lands and
20 Public Lands are located, and any recommendations the
21 Commission may have concerning such conditions.

22 **TITLE V—MISCELLANEOUS**

23 **SEC. 501. O & C LANDS.**

24 Notwithstanding any provision of this Act except sec-
25 tion 402, in the event of conflict with or inconsistency be-

1 tween this Act and the Acts of August 28, 1937 (50 Stat.
2 874; 43 U.S.C. 1181a-1181j), and May 24, 1939 (53
3 Stat. 753), insofar as they relate to management of timber
4 resources, the latter Acts shall prevail.

5 **SEC. 502. AUTHORIZATION OF APPROPRIATIONS.**

6 These are hereby authorized to be appropriated such
7 sums as are necessary to carry out the purposes and provi-
8 sions of this Act.

OLD-GROWTH FOREST MANAGEMENT

THURSDAY, MAY 30, 1991

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENERGY,
COMMITTEE ON AGRICULTURE,
Washington, DC.

The subcommittee met, pursuant to call, at 10:10 a.m., in room 1300, Longworth House Office Building, Hon. Harold L. Volkmer (chairman of the subcommittee) presiding.

Present: Representatives Stallings, Jontz, Panetta, Kopetski, Morrison, Emerson, Smith, and Herger.

Also present: Representative E (Kika) de la Garza, chairman of the committee, and Representative De Fazio.

Staff present: Andy Baker, assistant counsel; Alice Devine, minority associate counsel; Glenda L. Temple, clerk; Timothy P. De Coster, Dan McGrath, James R. Lyons, and James A. Davis.

OPENING STATEMENT OF HON. HAROLD L. VOLKMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. VOLKMER. Good morning.

The Subcommittee on Forests, Family Farms, and Energy will come to order. Today we will continue our review of legislation relating to old-growth forest management. Yesterday we had a very productive day, and I hope today will be similar. While we did not resolve the difficult issues involved, we engaged in some constructive discussions, not only with Members but also with agency heads, scientists, and others. I trust we will be able to continue that trend today with the various witnesses we have scheduled.

As I noted yesterday, it is critically important that we push ourselves toward resolving this controversial matter. We must bring some order from the chaos that now exists, and dialog such as those we engaged in yesterday will go a long way toward that effort.

While many of us have been particularly disappointed with the administration's apparent inaction in this matter, we have good reason, based on yesterday's hearing, to expect more cooperation from our land and resource management agencies.

In any event, as I noted yesterday, I do not intend to wait for the administration. Many of our witnesses, including those from the administration, expressed the need for legislation to resolve this matter, and we intend to continue to proceed down that path.

Today, I expect we will have a thorough discussion of the relative pros and cons of pending legislative proposals from various perspectives. All of this, of course, will greatly assist in our deliberations.

Again, I appreciate our witnesses' interest and participation, as well as that of members.

I'll yield to the gentleman from the State of Washington.

Mr. MORRISON. Mr. Chairman, I wish to thank you for your patience and investment of your time and that of other members of the subcommittee as we deal with a problem that currently affects primarily the Northwest, but goes potentially well beyond that, so I thank you for this investment of time. I think in the long run it will pay off as we do search for an answer together.

Thank you.

Mr. VOLKMER. The gentleman from Indiana is recognized.

**OPENING STATEMENT OF HON. JIM JONTZ, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF INDIANA**

Mr. JONTZ. Thank you, Mr. Chairman.

Yesterday we had an excellent hearing. We have a good list of witnesses today. I believe that these 2 days of hearings will give us a very complete record from which to undertake the task of writing legislation to address the problems that bring us here today.

One theme which I heard throughout yesterday's discussion was the need to look at the management of our public lands in the Pacific Northwest on an ecosystem basis. I don't think anyone came to us yesterday saying that we ought to repeal the Endangered Species Act, but we did hear concern that if we continue to look at these issues on a species-by-species basis only that we will, in the end, have a more difficult situation than we would were we to look at the need to protect ancient forests as viable, functioning ecological systems.

I would suggest to the committee that is, in fact, the object of H.R. 842, and also the bill introduced by my colleague, Mr. Vento, H.R. 1590. That's the objective of those bills—to put into place a process by which we can see that the forests, as ecological systems, are sustained. When that is accomplished, we will have provided protection for individual species that live in those forests, and also we will have provided a sustainable base for economic and human activities in the Pacific Northwest on a long-term basis.

There are disagreements among us, and certainly among the witnesses we heard, about what the best means of providing for the sustenance of forests as ecological systems is. How to resolve those disagreements, and how to address the economic problems that the Pacific Northwest is undergoing is the task that lies ahead of us.

I have confidence, Mr. Chairman, with your leadership and that of our ranking minority member, Mr. Morrison, and the other members of the subcommittee, we will get that task done.

At this point I would like to enter into the record a letter from a group of scientists. At the present time we have approximately 64 signatures on this letter. These are signatures of various scientists from across the country who have signed this statement expressing, first of all, their concern about the fate of the ancient forests in the Pacific Northwest; their support for an independent, objective committee of scientists to develop recommendations for a national ancient forest reserve system; and also their position that re-

maintaining ancient forests on Federal lands be given interim protection while the scientific committee is undertaking its work.

I would ask that this be put in the record at this point.

[The letter follows:]

Brown University * University of Oregon * Cornell University
 Center for Marine Conservation * Arizona State University
 Oregon State University * Rutgers University * University of Tennessee
 Humboldt State University * University of California, Davis
 Society for Conservation Biology * Florida State University
 Missouri Botanical Garden * Bowdoin College
 University of California, Santa Cruz * Duke University
 Indiana University * Oberlin College * University of Minnesota
 Iowa State University

An Open Letter from Members of the Scientific Community

As scientists deeply concerned about the world-wide loss of biological diversity, we are writing to express our support for efforts to protect the old-growth or ancient forests of the Pacific Northwest.

With respect to the diversity of conifer species and the size and longevity of individual trees, these forests are without equal. Whereas only two decades ago, many people believed these old-growth forests to be lacking in biological diversity, we now know they harbor over 200 species of vertebrates and an uncounted number of plants, fungi, and bacteria. Together they form an ecosystem whose richness and complexity we are just beginning to understand. These forests represent an irreplaceable, world-class resource.

Only about fifteen percent of the ancient forests of the Pacific Northwest remain today, mostly on federal lands where logging is permitted. There are grave costs associated with the continued destruction of these unique forests, including the loss of valuable ecosystem services, the extinction of species and populations, and the loss of opportunities for scientific research and discovery.

Decisions regarding the fate of the remaining ancient forest should be made with the best possible scientific information. Therefore, we urge Congress to establish an independent and objective committee of scientists to develop recommendations for a national ancient forest reserve system. Until the scientific committee has completed its report and Congress has acted upon the recommendations, we urge that all of the remaining ancient forest on federal lands be given interim protection.

Sincerely,

Dr. Gary J. Atchison
Iowa State University

Dr. William R. Clark
Iowa State University

Dr. Michael D. Bertness
Brown University

Dr. James Collins
Arizona State University

Dr. George Carroll
University of Oregon

Dr. William O. Denison
Oregon State University

Dr. David Ehrenfeld
Rutgers University

Dr. Amy McCune
Cornell University

Dr. Paul Feeny
Cornell University

Dr. Elliott A. Norse
Center for Marine Conservation

Dr. William Goldfarb
Rutgers University

Dr. Reed F. Noss
Conservation Biology Consultant

Dr. Eville Gorham
University of Minnesota

Dr. Peter Raven
Missouri Botanical Garden

Dr. Louis J. Gross
University of Tennessee

Dr. Seri Rudolph
Bowdoin College

Dr. Ralph Gutierrez
Humboldt State University

Dr. William H. Schlesinger
Duke University

Dr. Nelson Hairston, Jr.
Cornell University

Dr. Michael Soule
University of California, Santa Cruz

Dr. Alan Hastings
University of CA, Davis

Dr. Boyd R. Strain
Duke University

Dr. Simon Levin
Cornell University

Dr. John Terborgh
Duke University

Dr. Thomas E. Lovejoy
Society for Conservation Biology

Dr. David Winkler
Cornell University

Dr. D. Bruce Means
Florida State University

Dr. Donald Whitehead
Indiana University

Dr. Deedra McClearn
Cornell University

Dr. Michael Zimmerman
Oberlin College

Mr. JONTZ. Mr. Chairman, again, I appreciate your very thorough attention to the issues before the committee. I couldn't imagine how we would have had a more complete discussion than we had yesterday, and I'm sure today's hearing will be equally rewarding.

Thank you very much.

Mr. VOLKMER. Does the gentleman from Oregon have a statement?

**OPENING STATEMENT OF HON. MICHAEL J. KOPETSKI, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON**

Mr. KOPETSKI. Just briefly, Mr. Chairman.

Yesterday we heard from the politicians, we heard from the scientists, we heard from other aspects and sectors of government; today we will hear from the people.

I think that if we analyze yesterday's hearings we will see that what we didn't get a lot of testimony on was the affect on the workers and the communities. In addition, we didn't hear any testimony on the affect of the Endangered Species Act on private landholders. I think we'll hear that testimony today. It is a significant aspect of the problem and challenge that we have in resolving this issue.

As we assimilate this information from yesterday and today, I know that we are taking steps closer to the solution. Mr. Chairman, I really applaud you. I think yesterday's hearing was the best public information outlay on this issue that I have ever heard about or been a part of, and I want to commend you for your leadership in this area.

Mr. VOLKMER. The gentleman from Idaho.

**OPENING STATEMENT OF HON. RICHARD H. STALLINGS, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO**

Mr. STALLINGS. Thank you, Mr. Chairman.

This year Americans celebrate the 100th birthday of conservation and the birth of the National Forest System. Mr. Chairman, it is fitting in this centennial year that this subcommittee continue its leadership role to address the critical forest management issues facing our country.

I want to commend you for holding this hearing today and yesterday on an issue which is of real concern to me and of vital importance to the people of Idaho and the Pacific Northwest.

Let me summarize my comments very briefly.

As a result of the listing of the northern spotted owl, recent court decisions shutting down the Timber Sale Program in the Pacific Northwest and a growing number of appeals and litigation in my home State of Idaho and other parts of the country, our forest products industry is at a critical crossroads.

We have heard yesterday and we will hear today from a variety of public and private sector witnesses. Each of them will offer solutions to the present situation.

I'm sure that some will urge us to confine our legislative actions to the immediate issues of owls and old-growth forest reserves. Others will suggest that we take a broader view and deal with the

underlying problems. I recognize that tackling the fundamental problems of forest management would require a greater commitment of time and energy.

I offer the following questions to ponder as we listen to the testimony given yesterday and again today.

First, should this committee limit our legislative response to the immediate crisis, or should we confront the systematic problems?

Second, if we decide to pursue the underlying issues, should our response be built upon and integrated with the Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976?

Third, if our legislation includes amendments to the 1974 and 1976 acts, what issues should we tackle? Community stability? Timber sales? Economic plan? Amendments, revisions, and implementations appeals and litigation?

Mr. Chairman, I have an open mind about many of these questions; however, I must also say that it is time to restore stability in the management of our public lands.

As you know, H.R. 2463 was introduced last week by Congressmen Huckaby, Swift, and several others of our colleagues. This comprehensive bill, which has been drafted by the timber industry labor/management committee, deserves careful review and serious consideration. Supporters argue that the proposal would establish a long-term program that would provide a rational process to revise, amend, and implement national forest and BLM plans.

This legislation offers us an alternative approach to the continuing timber controversy in the Pacific Northwest. Furthermore, it addresses many of the programmatic conflicts that have arisen in the national forests.

I am especially interested in hearing from the witnesses regarding title II of the bill because it addresses the effectiveness of Federal land planning. I'm interested in whether the witnesses believe that the provisions of this title could help resolve many problems which affect the forest products industries in Idaho and around the country.

Mr. Chairman, that concludes my opening remarks. I look forward to hearing from today's witnesses.

Mr. VOLKMER. Does the gentleman from Oregon have a statement?

Mr. SMITH. No opening statement.

Mr. VOLKMER. All right.

Our first panel will be: Mr. Brock Evans, vice president of national issues, National Audubon Society, Washington, DC.; Mr. Louie Dick, Jr., vice president, Confederated Tribes of the Umatilla Indian Reservation, Pendleton, Oregon; and Mr. Murray Lloyd, attorney, Sierra Club, Shreveport, Louisiana.

We're going to go vote, and then we're going to come back and start the testimony. You can be reviewing it if you desire, but we'll be back in about 10 or 15 minutes.

[Recess taken.]

Mr. VOLKMER. We will now proceed with our first panel.

Gentlemen, your statements that you have submitted will be made a part of the record. You may either review those statements in full or summarize, however you so desire.

We'll begin with Mr. Evans.

STATEMENT OF BROCK EVANS, VICE PRESIDENT, NATIONAL ISSUES, NATIONAL AUDUBON SOCIETY, AND ALSO ON BEHALF OF THE ANCIENT FOREST ALLIANCE

Mr. EVANS. Thank you, Mr. Chairman.

I will summarize my statement.

I am Brock Evans, vice president of the National Audubon Society. I call the Pacific Northwest my home, having lived in Seattle for many years.

I want to thank you for the opportunity to be here today and add that not only is my statement on behalf of the over 600,000 members of the National Audubon Society, but also that it has been reviewed and approved of, and is therefore on behalf of, the Ancient Forest Alliance, which is a group of over 100 organizations—national, regional, and local—dedicated to the task of rescuing and protecting the ancient forests of the Pacific coast.

We want to thank you and commend you and the committee for taking the time for holding the hearings, and hopefully out of them can come some final and definitive legislation.

Now is not the time, we feel, to go over once again the qualities that make America's remaining ancient forests so unique and so obviously a rich heritage—really unique on this planet, Mr. Chairman. We have been testifying in this room and before this committee since about 1986, and many other scientists have spoken about it, as well.

We believe now is the time to act and do something about it, and we're hopeful that out of these hearings will emerge actual legislation which will, first and foremost, guarantee protection forever of our remaining ancient forests on public lands in Washington, Oregon, and California; and second, assist those individuals and communities who, through no fault of their own, relied on the promises of Government agencies once upon a time that all the national forests would be available for them to log.

Now that we have new awareness of the unique special values of this forest and public policies are changing, clearly any final legislation must help them make the transition into a second-growth economy—a transition which is already occurring anyway.

Mr. Chairman, it was mentioned earlier in the opening remarks that this particular hearing of yours has probably provided the most definitive record so far on this subject. We would say the same of the landmark hearings of Judge Dwyer, which led to his ruling last week some time. We urge the committee to give great weight to his findings of fact.

This is because it is the first time that sworn testimony under oath by the best experts that the industry and the foresters could provide, and the best experts the environmentalists could provide, was presented in open court in our judicial system in such detail. After that the judge made his rulings, and so we believe his findings are very important.

I will quote one of them here on the subject of transition. It is finding No. 11. He points out that "The region's timber industry has been going through fundamental changes—most important is

modernization." He also names some other factors. And then he says this: "The painful results for many workers and their families and communities will continue regardless of whether the owl habitat and the national forest is protected."

That's a significant point to us, we feel, in this case, Mr. Chairman, because if the present rates of logging are going to guarantee the final liquidation of the ancient forests anyway—and we believe we can show that—then surely it is no solution to permit that logging to continue until we have neither big trees nor jobs left. The solution is to pass legislation protecting both.

With that said, I'll turn quickly and summarize our comments on the legislation.

On page 2 we point out what you already know, that we have strongly supported H.R. 842. We believe it offers the best chance not only for protecting the ancient forests, but also for providing a full and complete public process to evaluate all sides before there can finally be a permanent statute.

Regarding H.R. 1590, the Ancient Forest Act, we think it has some very good concepts in it, but our calculation is that, at most, it would protect only about one-third of what remains—and what remains is not very much, Mr. Chairman.

Because it has a mandated 2.6 billion board foot cut, we are certain that if that law were enacted as is it would lead to a decimation of almost all the ancient forest lands that are not protected, especially on the very threatened east side areas, which I will come back to in a minute.

About the industry bill, since it was mentioned this morning already, we feel that the most original thing we have seen in it is that it actually uses the words "old-growth forest" and "reserve" in the same sentence, after years of maintaining there was no such thing or certainly no need for any solution to any problem.

The problem from our standpoint is that when you read the fine print we feel it will certainly lead to the extermination and logging of almost all the rest of the ancient forest. It mandates logging even inside the reserves, it mandates allowable sales quantities, it mandates amendments to the Endangered Species Act, suspension of judicial review, and many other factors. Some of my colleagues here will talk about some of them in a minute.

We cannot accept any of the concepts in this bill as we have now read them, and we hope the committee will not give it serious consideration.

Let me turn then finally to what our community, the Ancient Forest Alliance and the Audubon Society, considers the six basic elements which must be in any final legislative package from our perspective. We'd like to work with the committee on them.

First is a large, ancient forest reserve system which is really adequate to protect ancient forest-dependent species. This, in our view, means no new prospective logging or any political effort to shrink the boundaries, because it just won't do the job. The reserve system must be drawn according to scientific criteria, especially the criteria that we know now embraced in the principles of conservation biology—that is: Large, core reserve areas; representation of all forest types in the reserve system; and provision for habitat connectivity.

As I think the committee already knows, the vast bulk of public forest lands that are already protected from logging are almost entirely mid- to high-elevation species and categories. That's why we have the trouble, because the logging is continuing in places that really affect other species.

Second is that the reserve system must include the ancient forests in Washington, Oregon, and California—all of them—not just in the Douglas-fir region. The great ponderosa pine and mixed conifer forests of eastern Washington and Oregon and Sierra Nevada in California are equally, and in some cases more, threatened than those Douglas-fir forests on the west side. They also are the habitat for rare and endangered species.

I draw your attention, Mr. Chairman, to exhibit A, which I have attached to my statement. It documents the ecological catastrophe that is occurring in the east side forests, especially in Oregon, due to mismanagement by the agencies. This article quotes Forest Service officials and scientists saying that the Blue Mountain Area, in particular, is in a state of near-ecological collapse because of over-cutting and mismanagement. That's why we've got to protect these forests, too, while there is time.

Third, we ask that Congress make the allocation decisions, not the Forest Service or Bureau of Land Management. Our community completely opposes and cannot live with any efforts to divert resolution of this issue away from the Congress and into the discretionary hands of either of the two forestry agencies that have jurisdiction. We cannot accept any discretion given to them because of their very bad track record so far.

Ever since full-scale logging began in the Pacific Northwest in the 1940's and 1950's, these agencies have demonstrated a devotion to one issue only, and that is getting the logs out. Now the tragic results are there on all the land to see.

As Judge Dwyer again pointed out, the problem here has not been the law, it has been the refusal of the agencies to obey the law. Many of us truly believe that the public forests will never really recover from past agency mismanagement practices and emphasis on logging at all costs, so we think it is unconscionable and unnatural to expect these same agencies which have done so poorly to take actions now to protect things.

Exhibit B explains that. It is an article from the Bulletin, Bend, Oregon, March 1, 1991. It points out Forest Service's so-called "mistakes" even in their Timber Sale Program right now: Logging over streams; destroying wildlife habitat, even while they are logging. That's this year, Mr. Chairman. Exhibit C points out that the Bureau of Land Management in Oregon is even logging in its scenic areas.

We cannot live with anything that leaves discretionary authority to protect areas up to these agencies. Managing them, yes; but not deciding which areas are going to be protected and which are not. We are certain that not very many will be protected if they do.

The fourth has to do with the management of the reserve areas. We feel very, very strongly that we cannot permit any kind of management inside the actual reserve areas. We may come to new forestry later. We think it is an interesting but very unproven concept and must not be practiced in a reserve area.

By the same manner, the standard boilerplate language we see so often in other forestry bills which permits some timber cutting for salvage or prevention of disease, and so on, is unacceptable to us. These provisions have been abused so often in the past that if they are included here the forests will surely be logged and the purpose of the reserves will not be met.

Fifth, no interference with existing environmental laws. We feel the laws have served us well. We feel they were balanced. They were passed in the 1970's, and Congress considered them all. We will resist with all our power any effort to achieve sufficiency by suspending the process that is now before us—suspending the legal processes that we now have, or administrative processes.

We believe, Mr. Chairman, certainty can and will come when the plans are scientifically and legally credible. No court then will entertain a challenge to them and will throw out any law suits. That's where we believe the certainty should come from.

Finally, the economic package. We support—and we have always supported—all reasonable measures, such as many of those included in H.R. 1590, to assist local communities which may experience some dislocation. We can get in more detail, but I draw your attention to page 7, the last page of my statement, where we note that the log export situation must be considered in this situation.

Judge Dwyer's finding No. 42 documented that 3.637 billion board feet is now exported from private lands in the three States, and these logs produce no mill jobs or added value in the United States.

We believe, Mr. Chairman, that any solution to assist workers which may be affected by protection of some of the public's remaining ancient forests must include some way of dealing with the flood of log exports from private lands now racing on fully loaded log trucks past empty mills crying for timber. It is simply unconscionable for this industry to demand that the public's forests, so valuable for wildlife and recreation which can be had nowhere else, bear the burden of their profit seeking through the export market.

In conclusion, Mr. Chairman, we feel we have all come a long way together on this issue from the early years, when many tried to deny there was any problem at all, to now, when all sides recognize that we are fast losing a spiritual, ecological, and economical treasure that we can never get back—the ancient forests of our Nation.

Now is the time once and for all to act to protect this forest while there is still time. While we do this, we can also take measures to minimize the impact on the economy. As Judge Dwyer pointed out, while the loss of old growth is permanent, the economic effects of an injunction are temporary and can be minimized in many ways. This also is our belief, Mr. Chairman.

We are looking forward to working with the committee in every way possible to achieve these goals.

Thank you.

[The prepared statement of Mr. Evans appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you, Mr. Evans.

Mr. Dick.

STATEMENT OF LOUIE H. DICK, JR., VICE CHAIRMAN, BOARD OF TRUSTEES, CONFEDERATED TRIBES, UMATILLA INDIAN RESERVATION, PENDLETON, OR

Mr. DICK. Thank you.

My name is Louie Dick, from the Confederated Tribes of the Umatilla Indian Reservation. You will hear a philosophy in our attitude.

My community people know me as Squach. In that community I have learned and taught we must live in harmony with the land. If we don't live in harmony with the land, 7 generations, 14 generations, or 21 generations in the future will not benefit from that—7, 14, and 21 generations ago my grandfather and my grandmother thought of me.

[Native words]. I am lending you this land. [Native words]. I am lending you this speech. All of these things are connected. We don't have time to talk of those things.

To make you aware of the culture that I represent, I represent the land, the Earth. I am not walking upon it: I am the Earth, I am the land. Those loggers and those other people walk upon it.

To give you an example, this is choosh, water [drinks from a plastic cup]. It is sacred to the Indians. So is the land, because it enters your body. It enters the spotted owl. Containing this water is a straight lined item, plastic. It does not return to the Earth or to the land.

Where I am coming from, the spotted owl is not our enemy, he is only a portion of the thing that goes on.

In my country we have what we call hum-tea-pin. He wandered in northeast Oregon and all over that particular area. He is not allowed to wander there any more. You know him as grizzly bear.

Also, la-lush was to wander there. He no longer wanders in that area. He has gone away, pushed away. You know him as wolf.

Qu-i-Q lived in my country in my land, and now he only lives in a certain place. You call it the long-bill curlew.

Wash-wash-no is another one, called the sharptail grouse. His habitat is needed. He cannot live in the alfalfa fields and the grain fields.

Another nuisance—non-Indians call him—is wa-la-lick, that is called the jackrabbit. His habitat is being destroyed, removed.

There are many earmarks that I would call in our land. Tea-chum-e-pie-you-e-sha means "the land is being sick." Choosh-e-pie-you-e-sha means "the water is also sick." It is dormant. It is not live, clear, and active like it used to be.

We are looking at a big issue, a large issue. I am responsible by Creator, as my grandfathers were, for taking care of the land. That is part of the charge. [Native words]. That means "I am the Earth, and the Earth is me. What is done to the Earth is done to the Indian."

I had the opportunity to speak to many Forest Service people, and I explained to them, "Don't call us a minority. We are still here. We are part of the land. We are the land. We're not going anywhere." I am grooming my children to take care of the land, also because we have to leave this land pure, just like Creator. There is a difference. Your government and allegiance is to the

red, white, and blue, 13 original colonies; mine is to the land. Mine is to the land, my allegiance is there.

[Native word] is an example, the elk. You are not—Creator gave him the law to live on the plains. Somehow the allegiance of the red, white, and blue has moved him to the mountains. The people of the land think that this is where the elk should be, in the mountains; Creator's law said he was to be on the plains and lower places.

The most devastating thing to the Indian community is the dollar. The dollar motivates many things. The logger is concerned about the dollar, the rancher is concerned about the dollar. You can do everything you want, except don't mess with my dollar.

The wild and scenic river raft person says the same thing, the professional guide. "You can do anything you want, except don't mess with my dollar."

If we can use this dollar to put it as bait someplace else, I see jurisdictional problems between the national forest and/or Bureau of Land Management. They say, "This is my land and this is my boundary, and I'm responsible for taking care of that, but not of yours." Somehow the land is being forgotten. [tea-chum] is overlooked.

The statements that I make today are old, old, old statements and old teachings. They are not new. That's why the people came here.

The time for exploring, exhaust, and exit is over. That is indicated by gold. People found gold in our land. When they depleted most of it, they left. And they left a mess.

The time for alfalfa and that sort of stuff is also coming near an end. The reach for water—in northern California those people were told that place is a desert. Still they insist on making it a paradise by drawing from Mother Earth all the water that they can.

There are lessons all over across the land. I see it on our modern television. I have a television in my house. In a place called Lebanon, during the 10th, 11th, and 12th century those people depleted their land. They had a forest. They logged it. After they logged it, they turned to agriculture. After the agriculture, the land was gone, due to poor practices. There is an indication from some other land to tell us many, many of these stories.

In conclusion, we are the land. We are the Earth. What we do to the land we do to ourselves. I need your support to take care of myself.

I must do one more thing. When I go to Creator and stand before him I am not forgiven for anything. When I go to Creator, he is going to look at my body, the land, look right through me, and he's going to ask me, "What is this caffeine doing in here?" Everybody drank coffee and drank pop. And he's going to see herbicides and pesticides in my body because it is done to the land, so therefore I need support in taking care of the land. We need to balance [native word]. The water is sick in the Columbia and Umatilla.

I flew out of Portland to here, and I looked down on the GP, the Gifford Pinchot, and there were blocks of land. Fifty percent of that land was already logged over. There is not much left.

The plains used to have a lot of trees in Iowa. All these northeastern places had grown trees also. Your children don't know that. They don't see them. Therefore, we must protect the land.

I thank you for your ear. Thank you.

[The prepared statement of Mr. Dick appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you, Mr. Dick.

Mr. Lloyd.

STATEMENT OF MURRAY LLOYD, MEMBER, SIERRA CLUB

Mr. LLOYD. Thank you, Mr. Chairman.

I am grateful for the opportunity to speak before this subcommittee today. While I consider myself an environmentalist, I am also about as close to a timber beast as these gentleman would care to have sitting next to them. I am extensively involved in forestry and wildlife issues in Louisiana. I was the 1989 southern regional tree farmer. I have met with President Bush to discuss capital gains for timber. I'm on the board of directors of the Forest Farmers Association, chairman of the Louisiana Forestry Association's Wildlife and Recreation Committee, and also on the executive committee of the Black Bear Conservation Committee.

I derive a portion of my income from timber, I actively manage my family's tree farm, and, God help me, I have even been known to clear-cut, a practice that I endorse as a viable forest management tool.

We are very much interested in our Nation's ancient forests. They are a treasure that is part of our heritage, as well.

We in Louisiana have benefited in at least two ways from the situation in the Pacific Northwest. It has forced us into dialogs and debates over forestry and wildlife issues that have helped us to come up with some workable solutions. It has also served as an excellent model on how not to handle resource management conflicts.

By contrast, forestry and wildlife management in Louisiana are working quite well. On Kisatchie National Forest our management plan has been in place for some time. We have established the Kisatchie Hills Wilderness Area, designated Saline Bayou as a wild and scenic river, and we wouldn't know a below-cost timber sale if we saw one.

We also have our fair share of endangered species animals. Through the Louisiana Forestry Association, we have organized the Black Bear Conservation Committee with members from agencies, academia, industry, and environmental groups to recover the Louisiana black bear, the original teddy bear.

Most recently we have begun forming a similar group to work on the red-cockaded woodpecker. And Louisiana made significant contributions toward the recovery and delisting of the brown pelican and the alligator.

What I'm trying to point out is that the system can and does work. Granted, there is room for improvement. There always is. But by meeting on common ground and rolling up our sleeves we can work out enlightened solutions. That is why we are so concerned with the Huckaby-Packwood bill.

This bill, with its broad amendments to major environmental legislation, would export the holy war that is being waged in the Pacific Northwest to all of our national forests and all regions of our country.

This bill will have a serious chilling effect on the cooperative atmosphere that we have worked hard to create in our region. It may even drive some groups away from the table—a consideration the chairman addressed in his opening remarks yesterday.

This bill, by mandating artificial levels of timber volumes, would not only codify the single resource management strategy historically practiced in the Pacific Northwest, but also would reinforce the characterization of the Forest Service as the U.S. Timber Service, and our national forests as company property.

This approach would be the same as basing our national foreign policy decisions on whether or not the Cubs win the pennant. While everyone would hope for success, we think you would agree that there is no logical connection.

We should, instead, be moving toward allowing the Forest Service to base its decisions on sound forest management practices. Settling natural resource conflicts in courts and feeding lawyers is the most inefficient method we could use, but it is an absolute necessity as a tool of last resort. Far from indicating an insolvable problem, the level of public involvement shows the basic health in the system to self-regulate itself.

Limiting citizen access to the courts could restrict our ability to solve conflicts informally by forcing everyone to drag out discussions and comment periods and to file unnecessary lawsuits in order to be sure they have protected their rights of appeal. It is worth noting that, to my knowledge, the only group currently suing the Forest Service in Louisiana over an endangered species question is the Timber Purchasers' Association. How would they feel if this right had been denied?

This bill presents a patchwork of quick-fix ideas that will further entrench us in "us against them" mentality in the Pacific Northwest. Nothing will be gained by dragging the other regions into the fray; instead, much unnecessary conflict will be created and, as a result, we may see the logjam that has plagued the Pacific Northwest spread out across the entire National Forest System.

None of us wants to see that happen. None of us can stand for that to happen. That's why I'm opposed to the Huckaby-Packwood bill.

Thank you.

[The prepared statement of Mr. Lloyd appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you.

I will now proceed with questions under the 5-minute rule.

The gentleman from Washington.

Mr. MORRISON. Thank you, Mr. Chairman.

Brock, we've enjoyed working with you through the years. Of course, I understand your testimony on behalf of the organization.

I am a little uneasy, I guess, with your feeling that you can't even allow any management practices, any fire control, insect control, within this old-growth reserve. Is that—are you just adamant about that? Let it burn?

Mr. EVANS. That's a good question, Congressman. I feel the same way. It has been very constructive working with you in trying to achieve mutual goals.

The trouble with the so-called "management practices," is that if they are not described very carefully, either in statutory language or in report language, they are often abused. That has been our experience. That's why I mentioned salvage. Just like I might have a cold or something wrong with me right now, almost any forester can find a bug in some tree and call it salvage and cut it down. That's why I put in exhibit C, which documents the Bureau of Land Management cutting down over two dozen very large trees in a very scenic area on the grounds that they would be hazards some day. If it is a loose definition, that's the abuse.

We believe that if you are having a real reserve for scientific purposes, that the natural process must be allowed to continue. At the same time, as I think you are driving at, we do live in a real world and it is not a completely natural world any more. Something that might permit fire suppression to protect human health and human life and property would be a very appropriate kind of management, I think. But beyond that I would be very reluctant to do that, because it will be guaranteed to be abused as it has been in the past.

Mr. MORRISON. So your concern is basically with the management flexibility in dealing with that. You don't trust the people that have been managing in the past?

Mr. EVANS. No. The record is overwhelming the other way, and I'd be glad to submit a lot to the record.

As you know, I was an environmental representative in our State in the Northwest for 6 years and documented many examples of so-called "salvage" that were just another way to log controversial areas but call it something else. That's the problem we have with the track record of these present agencies.

We'd like to work with you if it is possible to see if there is a way to make language that protects human life and property in some way. That's a different order of magnitude. That's the "let it burn" part that we think has to recognize the real world.

Mr. MORRISON. I appreciate that offer. If you want a public reaction to let it burn once it has been set aside so—I understand your anxiety about what has happened in the past.

In your rather strongly worded position on protecting all old-growth areas, do you have any level of harvest in mind? As the Northwest delegation, we're having to work with that. The industry is here. They want certainty at some level. Do you have a level in mind at which you think they could find certainty?

Mr. EVANS. I think so, Mr. Chairman. It is clearly a good point. Our hope is that this committee, when you are fashioning legislation, will let the science come first and tell us what needs to be done to protect all the species—not just the spotted owl, but the others, as well. Once that is done, then what falls out from that hopefully will be managed according to the other laws that are out there already. I think that leaves a lot of flexibility to determine what harvest levels will be.

For example, the National Audubon Society submitted testimony before the House Appropriations Committee this year where we

asked our experts in the Northwest to make those calculations. After we calculated for protection of species, for the overestimation of inventories and things like that, we came up with a figure of about 1.3 billion board feet, which we recommended as the level. Now, of course, I know that's a lot lower than people were thinking, but it is certain because it takes into account all these other factors.

If I could add just one more point on the forest fire issue, let it burn probably is a policy that ought to be considered some time. Exhibit A in my testimony documents the ecological collapse of east side forests, especially in Oregon, because we have suppressed fire too much over the years. We have a problem there.

Mr. MORRISON. We are aware from testimony yesterday that some of the natural management techniques, including fire in some forests—

Mr. EVANS. In some ways.

Mr. MORRISON. I think if you preserve all old growth you're going to get more than just the regeneration of pine from the kind of fire we are talking about.

Mr. Lloyd, now that Judge Zilly has established a precedent on legal action forcing the Fish and Wildlife Service to declare critical habitat, do you intend to file in your part of the country to force critical habitat designation for the red-cockaded woodpecker?

Mr. LLOYD. Congressman, let me make it clear I am not an attorney for the Sierra Club. I'm an attorney, and I'm a member of the Sierra Club. But the Louisiana chapter of the Sierra Club is not going to file suit against the Forest Service over the red-cockaded woodpecker.

Mr. MORRISON. Is it your professional opinion that someone probably could force that to happen?

Mr. LLOYD. They could try. We have been successful mostly because of the cooperative atmosphere that we have and the ability to work informally with the Forest Service in Louisiana. We have managed to keep a number of groups out of our borders—close to our borders, but away from us.

Mr. MORRISON. You were very critical of the bill as introduced by our colleague on this subcommittee, Mr. Huckaby. As I have read that, I sensed that the goal there is to, in fact, make the planning process work. You seem to have interpreted it in a different way.

Mr. LLOYD. Congressman, in Louisiana the system works the way it is. There has to be a certain amount of flexibility because of the fluidity of the situations that come up. Certainly there is room for improvement in the National Forest Management Act. There is also room for improvement in the Endangered Species Act. I think I would like to see those addressed separately rather than dragging us into the fray of the Pacific Northwest.

We work with our system the way it is. I like having flexibility. I trust the Forest Service in our area.

Mr. MORRISON. My time is up. Thank you.

Mr. VOLKMER. The gentleman from Indiana.

Mr. JONTZ. Thank you, Mr. Chairman, and thanks to all of the panel members for their statements.

Mr. Lloyd, let me follow up with you in some detail about some of the provisions of H.R. 2463, and maybe you can tell me if you are aware in your State or region whether there are problems.

Mr. LLOYD. Yes, sir.

Mr. JONTZ. I'm trying to sort through this. Excuse me while I'm trying to read these provisions.

Do you have any problems now with the way the appellate process works at the administrative or the judicial level under the National Forest Management Act?

Mr. LLOYD. No, sir. That hasn't been a problem for us. We had one appeal that was filed on our previous forest management plan, but it was withdrawn at our request.

Mr. JONTZ. Do you think that the existing language of the National Environmental Policy Act requiring Federal agencies to have a continuing duty to gather and evaluate new information relevant to the environmental impacts of their actions has caused any problems in your State or region that you are aware of?

Mr. LLOYD. No, sir. I actively manage my own tree farm in that way. I would hope that the Forest Service and other agencies responsible for managing our natural resources would do it as well.

Mr. JONTZ. Would it be a bad business practice for you to ignore significant new information in making management decisions?

Mr. LLOYD. Yes, sir.

Mr. JONTZ. Thank you. I appreciate that statement.

Mr. Dick, can you tell me what you have seen happening to forests in your own area? Your home is Pendleton?

Mr. DICK. Correct.

Mr. JONTZ. And so the Umatilla National Forest is in your general area there. Are there forest practices that you see that are disturbing? Have any of your spiritual grounds been affected? What do you see happening to the forests in the portion of eastern Oregon and Washington State with which you are most familiar?

Mr. DICK. Within our boundary of 6.4 million acres there are four national forests within that boundary: The Umatilla, the Wallowa-Whitman, the Malheur, and a portion of the Ocheco.

I was also a forest dispatcher on the Umatilla National Forest. I retired there after 25 years. I flew over quite a number of those areas, particularly on the Umatilla. It was not uncommon to fly over a beetle kill that was in lodgepole pine that was maybe 3 to 5 miles wide to about 15 to 18 miles long—a solid mass of dead timber. To me that is an indication of the sickness that is there.

The fire suppression activity was very exuberant and very good. The policy of stop fires at 10 o'clock in the morning was a powerful policy. Old Smokey Bear did a wonderful job. And then creation of things that occurred in the ecology as I know it—I was told on the south-facing slopes those species of trees that are growing on that particular area are not a very strong species. They are not designed for the south slope. They are designed for the north slope. So the species on the south slope is beginning to die. Fires is one of those that created ecology that eliminated the weaker species—the white fir on that particular slope.

Yes, there is an indication. Plus, there is an indication of the polluted streams. When we had about 1½ or 2 inches of rain there

was a lot of mud going down most of the rivers, so there is an indication that there is sickness there.

Mr. JONTZ. Thank you.

Mr. Evans, in the newspaper clipping that you gave us with regard to the situation in the Blue Mountains there is a Forest Service entomologist quoted, or at least interviewed. If this newspaper account is correct, he says that restoring the health of these Blue Mountain forests is going to require conserving virtually all remaining old-growth ponderosa pines for their genetic traits and as a source of seeds to grow healthy new pine forests. Do you agree with that?

Mr. EVANS. I certainly do, Mr. Chairman. Anybody who travels through that country, as I have extensively, and sees it I think would also—the big, old ponderosa pine are the most valuable lumber species, and therefore they are the most logged species. There are very, very little left of large, ancient forest-type groves of ponderosa pine. One of the most major stands of all, Augur Creek in the Fremont Forest, is scheduled to be logged by the Forest Service this 4th of July. The trees there are 650 years old. It is just about the last of their kind.

As you pointed out, the entomologist said that we should protect all the rest of our old-growth ponderosa pine because they are a gene pool. That's the best species. What we have done is high grade the gene pool and left the inferior species to predominate, and that has been the problem on the east side.

Yes, we have maps prepared for the National Audubon Society about the forest program. We'd be glad to show the committee how little is left of this ancient forest type—a lot less than of the Douglas-fir type.

Mr. JONTZ. Thank you.

My time has expired, Mr. Chairman.

Mr. VOLKMER. The gentleman from Oregon.

Mr. SMITH. Mr. Lloyd, what percentage of Federal lands are there in Louisiana?

Mr. LLOYD. Government ownership is 10 percent, industry is 30, and private nonindustrial forest land ownership is 60.

Mr. SMITH. So it is almost the reverse of the Pacific Northwest?

Mr. LLOYD. Yes, sir.

Mr. SMITH. Are you concerned at all about the Endangered Species Act applying to private timber lands?

Mr. LLOYD. I'm concerned about anyone showing up on my doorstep and saying, "Hi. I'm from the Government, and I'm here to help you." as a private landowner.

Mr. SMITH. That's what we'll do, of course. We'll help you out.

Mr. LLOYD. I have my concerns about the Endangered Species Act. There are some things I would say could be done to correct it, and I would like to address those during the reauthorization next year, not while you're trying to struggle with the difficult problems in the Pacific Northwest.

Mr. SMITH. Do you think it ought to be changed?

Mr. LLOYD. Yes, sir.

Mr. SMITH. Do you think people should be compensated for the loss of the value of their lands, their productivity, if the Government, through the Endangered Species Act or the Wetlands Act,

takes your private land from you, or at least the use of it? Do you think people ought to be compensated for that?

Mr. LLOYD. Yes, sir. I believe that there is a certain amount that the Government needs to regulate in order to protect public health, but beyond a certain point the private landowner has given quite a bit to this country, and to continue to take away from him without compensating him I think is criminal.

We are concentrating, particularly with our Black Bear Committee, on looking at ways of purchasing easements, compensating landowners through the Conservation Reserve Program. There are a lot of programs in the new farm bill that are going to help, but that needs to be addressed more directly.

Mr. SMITH. Then I'm sure you'll support a bill I have introduced which would compensate private landowners or anybody else if the Government takes their land for any purpose—Endangered Species Act. In fact, it may apply to Louisiana more than any State in the Union because, as I understand it, under one definition 80 percent of Louisiana is a wetland.

Mr. LLOYD. Right now it is. I would support the idea. Yes, sir.

Mr. SMITH. Good.

Mr. EVANS, are there any ancient forests in wilderness areas?

Mr. EVANS. Using the definitions that the Forest Service has, yes, there are some.

Mr. SMITH. So in the case of Oregon, with which you are very familiar, there are 2 million acres of wilderness. The idea that the ancient forest is about to be cut down is not accurate.

Mr. EVANS. No. It is accurate, I'm sorry to say, Mr. Congressman, because the vast bulk of the forests that are protected in your part of the world, like Eagle Cap, are not the lower elevation or the big ponderosa pine. There are a few places like that. Most of them are higher elevation. That's why I used the words "liquidation" or "extermination" advisedly. Anybody who flies over that part of the world or goes through it can see that the biggest and the best forests, which are the best habitat, are at the lower elevations. Almost all of them have been left out of wilderness.

I speak with some authority because I have been involved in most of the efforts to protect these areas over the last 25 years.

Mr. SMITH. I speak with some authority, too. I have lived there all my lifetime. The facts are that the wilderness area around John Bend and in the southern part of Oregon are all areas which grow trees, have never been entered into, and, as you testified, have ancient forests in them. Eagle Cap is one extreme example because it is high elevation, of course.

There is a lot of timber set aside—2 million acres—in the State of Oregon, and there are some lower-elevation timber-producing areas.

I guess the question finally is—the debate, I suppose, is: How much do we add to that preserve?

Mr. EVANS. That is a valid point, and that is the debate.

Mr. SMITH. Yes.

Mr. EVANS. I'd be glad to bring our maps into your office and show you our mapping program which has shown the old-growth forest, which includes what is in the wilderness areas and what is

not. We think that would persuade you that there is a lot less there than may be maintained just by naming the number of acres.

Mr. SMITH. But the statement that all old growth is going to be eliminated in 10 years is erroneous, because there is old growth already preserved in wilderness areas.

Mr. EVANS. I'd say maybe 1 percent of all the old growth may be protected. About 7 percent of the 100 percent there used to be there still remains.

Mr. SMITH. Yes.

Mr. EVANS. So we could say of all the unprotected old growth only a very tiny fraction remains protected. It is still inaccurate to, as industry often does, name all the acres of forested land and to say that somehow that's old growth. You and I know, since you have lived there so much, that that's mostly high altitude with lodgepole and other kind of high-altitude species. It is not the big trees you and I are talking about.

Mr. SMITH. But there are a lot of big trees in wilderness areas.

Mr. EVANS. I wish I agreed with you. We wouldn't be here. There are not a lot. There are some.

Mr. SMITH. All right. Well, we have agreed that there is ancient forest that will always be protected as long as we have wilderness.

Mr. EVANS. Yes.

Mr. VOLKMER. The gentleman's time has expired.

We will now recess for what I understand is the final vote of the day. We will return after the vote.

[Recess taken.]

Mr. VOLKMER. Mr. Evans, you mentioned the problems on the east side in the Blue Mountain area. Yesterday we had testimony. First maybe I'd better ask you if you know of Jack Ward Thomas?

Mr. EVANS. Yes, sir.

Mr. VOLKMER. Do you have respect for his views and opinions?

Mr. EVANS. From what I know of them I do. Yes, sir.

Mr. VOLKMER. Now, yesterday I specifically asked him about the problems on the east side. In one question I used the word "overcutting." I asked him about that. He says that the word, of course, is very controversial, but he doesn't consider the question of overcutting as the most serious problem on the east side. Now, he also, had some reservation about the approximately 1 million acres of diseased pine, of putting them in a reserve and letting them sit and not doing anything about those. In fact, he suggested that we even start cutting some of those. That goes against what you are proposing, does it not?

Mr. EVANS. If that's what he said. I wasn't here yesterday and did not hear that. I don't believe Mr. Thomas is an entomologist, a person who specializes in diseases from insects and so on. The article in my exhibit A is from a Forest Service entomologist who says the important thing to do to protect the gene pool is not to log any more of the big pine.

Mr. VOLKMER. We're talking about the ponderosa.

Mr. EVANS. Yes, sir, I am. The ponderosa pine.

Mr. VOLKMER. Now, if you're just talking about the ponderosa pine areas, we've got a whole bunch of other areas that are white pine or lodgepole pine.

Mr. EVANS. That's correct. Yes, sir.

Mr. VOLKMER. That's on the east side, too.

Mr. EVANS. Yes, that's correct.

Mr. VOLKMER. So what you're talking about is just the ponderosa pine area.

Mr. EVANS. I'm talking about the ponderosa pine and some of the few remaining larger stands of mixed conifer, which would be ponderosa and some of the others. But the lodgepole is a different matter, I think. You're right, Mr. Chairman. If that's what Jack Ward Thomas said, the lodgepole pine is a problem that has to be dealt with in one way or another.

Mr. VOLKMER. Yes. It is a serious problem.

Mr. EVANS. I agree.

Mr. VOLKMER. But it has to be dealt with completely differently.

Mr. EVANS. Than the ponderosa pine. Yes. Correct.

Mr. VOLKMER. And it is sometimes easy to criticize. A lot of people do it. They call them Monday morning quarterbacks.

Mr. EVANS. Right.

Mr. VOLKMER. They criticize what has happened in the past. All I would say is that when you do that I'd like to know what you have done in the beginning. What did you say when the football game was started on Saturday afternoon at 1 o'clock? What did you say then, not what you say now. My question is: There was a reason—and Mr. Thomas gave it—why those ponderosa pine were cut and why they were replaced with the fir and white pine. At the time, it appeared to be a valid reason, but now, through hindsight, because of diseases and the fact that you can't use DDT to suppress growth, etc., we find now that it wasn't a wise decision. But that doesn't mean that the Forest Service management principles at the time they made them were necessarily bad.

Mr. EVANS. That's a good point. Hindsight is always 20-20. We're aware of that, Mr. Chairman.

The only problem, added on top of that, is what I think we can document as the overwhelming emphasis of the Forest Service on cutting down the trees and getting the logs out, as opposed to any other kind of multiple-use management. I have been involved in east side activities for about 25 years, and I would be glad to furnish you with a list of timber sales we protested which we thought were high-grading and eliminating the big pine at that time in the 1960's and the 1970's.

I think the problem was that it was not multiple-use management, Mr. Chairman, but logging primacy management, and that has been a lot of the problem. That's the reason for the fire suppression. Granted, we all agree that we were raised on Smokey Bear. I probably wouldn't have done any differently myself in those days because we thought that was a good thing, and that's very valid. But the timber emphasis has always been protested by us and thought to be wrong, and that's a lot of the problem, too.

Mr. VOLKMER. Correct. In fact, Mr. Thomas mentioned that it would have been better if they had controlled burning.

Mr. EVANS. Yes, sir.

Mr. VOLKMER. And we still need to use controlled burnings in certain areas. In fact, Mr. Franklin, if I remember right—or maybe it was Norman Johnson—mentioned that we'd be better off hiring

some of these people that are going to be out of work to do controlled burnings.

Mr. EVANS. That's right, and this committee has the jurisdiction. We would encourage you to look into that, Mr. Chairman. There are a lot of ways we can protect the rest of the forest for economic and other values by having more controlled burns now before it is too late.

Mr. VOLKMER. That's why, personally, I like to divorce the east side problems away from the rest of it because to me it is going to have to be treated quite a bit differently.

Mr. EVANS. The problem we have with that, Mr. Chairman, is that if we wait to deal with it the big pines I'm talking about will be all logged off. There isn't that much more time left. Once again, our mapping program is documenting that. If there is a way to have a moratorium on logging any more ancient forest on the east side while we study it, that's one thing. If we are going to wait and fiddle while Rome burns, so to speak, then there won't be anything left when we come back here in a few years.

We believe we have the scientific evidence now to document for you and this committee where the ancient forest is, what the values of it are, and I'd be glad to submit it to you. We have the maps and we could come by and show you them.

Mr. VOLKMER. So we can still treat the other parts—the diseased areas and the lodgepole and everything else.

Mr. EVANS. I think there is a way to get a scientific opinion on how to deal with that, that all of us could agree to. I would like to see environmentalists and industry and scientists sit around the table and see how to deal with the lodgepole in some way while we are, at the same time, reserving those ancient forests of ponderosa pine that the entomologists say should be retained as part of the gene pool and not logged any more.

Mr. VOLKMER. Now, Mr. Lloyd, I appreciate your comments regarding the management of forests in Louisiana. Do you believe that the national forest planning process is working in the Northwest?

Mr. LLOYD. No, sir.

Mr. VOLKMER. Pardon?

Mr. LLOYD. No, sir.

Mr. VOLKMER. No, sir? So in the—

Mr. LLOYD. I would say that my reason for saying that is I don't think everybody is participating as fully as they need to.

Mr. VOLKMER. In the State of Louisiana you have very small national forests.

Mr. LLOYD. Yes, sir.

Mr. VOLKMER. You have only about 560,000 acres of national forest in the whole State.

Mr. LLOYD. Yes, sir.

Mr. VOLKMER. So you don't have the same demands and the same problems that we have elsewhere.

Mr. LLOYD. Well, we do have communities that are primarily dependent on the national forest units. There are some parishes that are made up predominantly of national forest units.

Mr. VOLKMER. All right. And we in Missouri, just to give you an example, have almost three times as much national forest as you

do, and we have the problem. We had the problem last year with almost every proposed sale being appealed willy-nilly, no reason. Do you understand? So we do have our problems elsewhere.

Mr. LLOYD. Yes, sir. I recognize that. My comments were, "Don't mess up the good thing we've got going because you've got problems somewhere else." We'd be glad to come help and show you how things are working in Louisiana, but don't back us into a fray that we're not in yet.

Mr. VOLKMER. I wish you'd go to the town of West Springs and talk to a couple of people in Missouri because that's all it is, and talk to them about filing all of these appeals and all these sales. I'd appreciate that.

Mr. LLOYD. One of the things I do is talk to people who are thinking about filing appeals in Louisiana.

Mr. VOLKMER. Now, Mr. Evans and Mr. Dick, in the States of Washington and Oregon, and even to a greater extent in northern California, we have a portion of the land in the area that is covered by national forests and BLM lands, and then other lands that are privately and State owned. A good part of those State and private lands have trees, and in the past they have had what we would call ancient forests—Douglas-fir that have grown and now been removed; is that correct?

Mr. EVANS. Yes, sir.

Mr. VOLKMER. And there are more of those lands than there are of the national forest and BLM lands except in northern California. Northern California has more of the national forest land.

Mr. EVANS. I think that's right.

Mr. VOLKMER. That's correct?

Mr. EVANS. I think so. Yes. I don't know the exact acreage.

I know in my State of Washington I think they are roughly equivalent—about 9 million acres of national forest and 10 million acres of private land. I think in Oregon it is larger, but they're close—very close.

Mr. VOLKMER. Yes. Now, what you are telling me is that we are going to save the ecology of a region and of the national forest lands by setting aside approximately 10 or 15 percent of the total land; is that correct?

Mr. EVANS. I think what we are trying to say is that if we are going to have a chance to protect the ecosystems that these various types represent, the best chance is to start with what is left, which is on the public lands, and hope that works out. I don't know if we can do it or not. I'm not a scientist. I hope we can.

Mr. VOLKMER. So what we're doing—now let me ask you this: What is wrong with the ecosystems on the other lands?

Mr. EVANS. They're all stripped and devastated and logged off and sent overseas. Anybody who flies over those lands can see what is going on. We have many pictures and documents in our files.

Mr. VOLKMER. What about the trees that have been replaced?

Mr. EVANS. They're replaced and they are there. Hopefully, they are good fiber producers, Mr. Chairman. They are a single species monoculture with problems with—they aren't very valuable from the standpoint of protecting ecosystems, which represent a lot of species, especially forest interior species. They're just gone.

Mr. VOLKMER. And the idea is to protect those forest interior species?

Mr. EVANS. Yes, sir.

Mr. VOLKMER. Just so I understand everything on the record.

Mr. EVANS. Right.

Mr. VOLKMER. Mr. Dick, you don't have a lot of creatures out there in the Northwest that you used to have. We don't have a lot in the Midwest or the Northeast that we used to have. They are never going to return. I'm not going to ever have the black bear in Missouri roaming free, in my opinion, but I still have wild turkey, I've got deer, I've got squirrels, I've got rabbits, I've got all kinds of birds and turtledoves and quail, I have coyotes. Now, is my ecosystem in Missouri so bad because I no longer have the bear?

Mr. DICK. What an opportunity. Thank you.

Mr. VOLKMER. I want to know your opinion as to whether or not I have been deprived.

Mr. DICK. Yes, you have. There were countless buffalo that roamed across the land. You've seen that in "Dances with Wolves". Yes, the system is—the cost for returning the salmon to the Umatilla River with the Columbia River—we've got a subbasin project that was done cooperatively, and the cost is a lot of coins to bring the salmon back to the Umatilla River. There are other species that are not there that are kind of ignored.

I hear what you are saying. We have also got them in museums, but that doesn't help the ecosystem. We need them on the ground and on the land in the abundance or near the abundance that we can get close to. I realize what you are saying. We've got a few left. I am one of those dying species, too. I speak my language, [native words].

That particular thing, to create an artificial one—I was reminded of a story a little while ago. I am a member of the Wild and Scenic Rivers, representing the tribes on one of them called the Imnaha River. At that particular location I was smiling and giggling to myself because I saw a strange thing. Alongside the river there was a DBH tree of maybe 18 to 24 inches, and it was anchored with a cable to a block of concrete. My assistant looked at me, and he was wondering why I laughed. I said that's a strange scene. He said what they were trying to do was create old-growth atmosphere.

They didn't have the tree, for one thing. The diameter should have been 36 and larger. What it did was create a pool for salmon and hishlawm the steelhead. Those particular things were gone, so the value of the old growth is needed by the salmon, too, and it provided coolness, habitat, and a pool, and things like that. So yes, you have been unknowingly deprived of many of these things that I was already talking about. Yes.

To have the wolf in the museum is not the functional place for him to be.

Mr. VOLKMER. But that's where the dinosaurs are.

Mr. DICK. They were not assigned—well, their assignment was completed.

Mr. VOLKMER. They were a part of this Earth and they are gone. There are a lot of other things that have been here and gone. What bothers me about this whole thing of preserving—and it has been

for over a year now—an ecology in one place with the idea that we are really accomplishing something is that we're not changing the ecology any place else. The ecology in my area in the State of Missouri is going to remain as it is no matter what I do in the Northwest.

Mr. DICK. The assignment—in my country there is only fifteen-one hundredths of an inch of rain. All those have been proven through history that they belong there, be it grass, brush, trees, any animals that go there. There is only fifteen one-hundredths of an inch of rain per year on average, so that's what it is designed for. To bring something else in is not compatible. It is not designed for that land. The one that I'm referring to is that those fish that have been introduced into the Columbia River are not native. They are warm-water fish. They can adjust to it because of the ecology changing, but they are not the real thing.

Mr. VOLKMER. The gentleman from Idaho.

Mr. STALLINGS. Mr. Evans, I don't know if you commented on this in your testimony because I didn't get a chance to hear it all, but H.R. 2463 is an attempt to help resolve many of the problems facing the forest products industry. Have you commented on that? How does your organization feel about that effort, and particularly title II?

Mr. EVANS. I'm not sure about—I think title II is the part that expands the issues to all the national forests in the country?

Mr. STALLINGS. That's correct.

Mr. EVANS. We're very strongly opposed to that, Congressman. We think this might be the solution that the industry would like. Basically, in our view—and I talk about it on page 3 of my statement—it makes timber primacy the goal again. It sets allowable sales quantity levels, it mandates they must be met, notwithstanding any other provision of law. That means presumably safety laws and minimum wage laws and civil rights laws, as well as every other kind of wilderness laws and everything else.

As Mr. Lloyd has pointed out, if we are going to try to expand the timber industry's view that the forest ought to be managed for tree farms first across the rest of the country, there will be a national fight. This will not serve the industry's needs to get a resolution of this issue in the Northwest at all, it will just expand it and drag it out for years. We are very much opposed to it.

Mr. STALLINGS. One other question—and maybe Mr. Dick could comment to this, as well—we are hearing some reports—in fact, and Idaho newspaper reported this week that the White House may push for changes in the Endangered Species Act. This is being driven by a variety of controversies, including the spotted owl and the salmon and so on.

Do you believe changes are necessary as a way to deal with these problems?

Mr. EVANS. If you are asking me, Mr. Lloyd and I were talking at the last break, and he mentioned a very successful way to bring local people, stakeholders, together as a species issue came up and see if that might be a way of resolving it first. An amendment like that, which is a procedural kind of amendment which permits people to talk under the umbrella of the law but maybe without all the formal procedures, might be a very good way to try to lessen

some of the acrimony that comes up. Other than that, we think the law has well served the test of time.

The problem with it probably is, Congressman, that it has worked. It has actually worked to protect species. We recognize that offends some interests who want the economic products of the land here, but that doesn't mean it isn't a good law.

I think you'd find us strongly opposed to amending those substantive portions of the act.

Mr. STALLINGS. Mr. Dick, do you have feelings about the Endangered Species Act? Should it be adjusted or altered? This committee has no jurisdiction over that. I think this is something we will eventually address as a Congress.

Mr. DICK. I'm not familiar with all of the specifics of that, but in general terms, yes, to preserve all native species. I know this has probably occurred to you, but if they have an Indian name then they belong in that portion of the area. That's the only way that I can answer that. To introduce another foreign species is not suitable for the land. It may be for them, but not from the Indian community's point of view.

Mr. STALLINGS. Mr. Chairman, thank you.

Mr. VOLKMER. The gentleman from California.

Mr. HERGER. Thank you, Mr. Chairman.

Mr. Lloyd, did I understand your testimony? You represent the Sierra Club; is that correct?

Mr. LLOYD. I'm a member of the Sierra Club. Yes, sir. I'm also a member of a number of other groups.

Mr. HERGER. You are here—I'm just looking at the testimony. You are down for—it shows here——

Mr. LLOYD. They needed the title.

Mr. HERGER. I see. So you're standing in for them.

Did you say that you trusted and basically thought the Forest Service was doing a good job?

Mr. LLOYD. In Louisiana, yes, sir. I have a good working relationship with Forest Supervisor Danny Ritt.

Mr. HERGER. And do you support the idea of balance in what we are doing, basically, as we look at forests?

Mr. LLOYD. Yes, sir; I do. That's good forest management practice.

Mr. HERGER. Mr. Evans, what I understand by your testimony is that our feelings are considerably different than those of Mr. Lloyd? You represent Audubon?

Mr. EVANS. Yes, I do, Congressman. Yes, that's an accurate characterization of my views. I was the Sierra Club's representative in the Northwest, including northern California, for 6 years and traveled everywhere. Then in subsequent years since I have been here I have gone around the country a lot. My view is that, especially in the Northwest that I know most about, the agencies have not done a good job because of the overwhelming emphasis on timber first and foremost—first, second, third, and fourth basically. That's the basis of our views here.

In other parts of the country it depends. I was just at a conference where I learned that in North Carolina various people and plant biologists have been fired for speaking out about protecting the plants in their areas because it interferes with the timber pro-

gram. There are similar problems around the country, but I don't know about Louisiana. I'm glad to hear there is a place where maybe there are good relationships and the agency can be trusted to manage the land for all uses, not just timber, but I haven't seen much of it, frankly.

Mr. HERGER. Do you believe in a balance?

Mr. EVANS. I certainly do. And when 95 percent of the forests are already cut down, I'm not sure that 5 of 95 percent is really a balance. We've got a problem here with splitting the difference and logging off half the remaining ancient forest and saving half of it, and I'm not so sure that's a balance. I do believe in balance very much.

Mr. HERGER. When you say 95 percent is cut down——

Mr. EVANS. Right.

Mr. HERGER. I represent a large area in northern California.

Mr. VOLKMER. Would the gentleman yield on that?

Mr. HERGER. Certainly.

Mr. VOLKMER. Ninety-five percent of what?

Mr. EVANS. Of what we call ancient forest. Our estimation is there once were about 50 million acres of this forest type, Mr. Chairman, in the three States. Estimates vary. Our estimate is that maybe 5 million of it still remains. That's where I get the—I'd say between 2 and 5 million, so that's where I get the 95 percent. It could be 96 or 97 percent, or something like that, or it could be 94 percent.

Mr. VOLKMER. You're talking about just the three States?

Mr. EVANS. Yes, and just what we have defined as ancient forest. Yes, sir. I'm talking about private land and State land, Congressman, as well as Federal lands—what used to be.

Mr. HERGER. You did say that you do support balance.

Mr. EVANS. Certainly, and I think that's very important. I think the needs and concerns of the communities that you represent and others have to be very much factored into this equation. We want to work with you on that.

Mr. HERGER. I appreciate very much hearing you say that.

Are you aware that these communities are basically being shut down right now?

Mr. EVANS. I am aware that some communities are. Indeed, I am. I said in my testimony, although not orally, that what was happening is not their fault. In effect, I agree with some others that have pointed out that 40 or 50 years ago the Government said, "You all come. Come and locate here. You can cut down all these trees." They came in good faith and they located there.

Now we have new awareness and we realize we are near the end of it and there are other values that none of us knew about—none of us, including me, really knew about, either. Now public policy is hopefully going to change. It is not their fault and they need to be helped. But surely the solution is not to continue logging until it is all gone; it is to try to help protect their jobs and make a transition to a second-growth economy, and also have some ancient forest left at the end of this time.

Mr. HERGER. Is it not correct that of the forests available about two-thirds are already off grounds for logging? Is that a fairly accu-

rate statement? Only one-third of all our forests we are able to log on?

Mr. EVANS. It is both not correct and also very misleading. Those who make that statement, Congressman, are usually talking about the total acreage of all wilderness areas and parks and areas under minimum management requirements and things like that. They add them all up. I have seen the figures, and so have you.

Mr. HERGER. Right.

Mr. EVANS. The problem with the reserved areas——

Mr. HERGER. Are you saying that's not accurate when you add them all up.

Mr. EVANS. It is not, for this reason: In the first place, you've got to take the rock and ice out of them. Those acres don't count because they have no trees in them. I'm talking about the reserved areas.

In the second place, where there are trees in the reserved area, they are almost all high-elevation species. Even the Trinity Alps and others have some of what we would call old growth, but not very much compared to what is outside, so you've got to talk about the old-growth ancient forests with the big trees.

Third, the area with very minimum management requirements and elsewhere are not, for the most part, taken out of the allowable cut base, so they can be logged at some later time, and they will be logged. We don't consider those reserved areas except temporarily. That's why it is very misleading. Our maps show a much different situation than that.

Mr. HERGER. Then what would you say it is?

Mr. EVANS. I would say that——

Mr. HERGER. What I understand is that there is only one-third out there that is even open to be logged, and of that third they have to be logged in such a way that it is renewable or it will be renewing itself.

Mr. EVANS. Right.

Mr. HERGER. And we're not even talking about the other two-thirds which is completely off limits that they can't even look at logging.

And what I am getting at—I see my time is up—is this idea of balance. The people I represent don't even seem remotely close to coming up with a balance. As you are aware, we had fires out there in 1987. We had enough timber out there that could have been salvaged to build 30,000 homes. Do you live in a wood home? I do. Most of us do.

Mr. EVANS. I don't, but I understand what you're——

Mr. HERGER. You don't. You're one of the few who don't. Most of us do. I have children coming up. I would hope some day they would be able to live in one. There is a very real need out there.

I guess our feeling is—and I don't know what percent you do agree it is. There are many who say it is only one-third, or whatever it is. In order to have balance, we need to be able to manage this area.

We have forests that I represent that have been burned and are rotting, and I know there are many—I would guess there are many in your group that would rather see this timber rot than be able to be utilized to build homes and to help pay for the schools and the

roads in these areas and help support these families that are very real people and very real children.

I guess I plead with you, Mr. Evans, and those who you represent and others, that we try to come up with some balance, because I don't see it right now, and that we can work together. I don't see that right now. Your side is clearly in the driver's seat right now, and I think it is a tragedy. I think it is one that will some day turn around, but in the meantime we have many people that are losing their whole way of life. This is very serious. I would just hope for the balance you talk about, which I don't see in any shape or form right now.

Mr. EVANS. I hear your words, Congressman. I'd just respond quickly.

Many of our people in northern California in your district and elsewhere are concerned, too. They live in the same small communities as the millworkers do. The Klamath Forest Alliance has just sent me a proposal which attempts to accommodate these values and have the ecosystem diversity and the balance we're talking about and to help deal with their neighbors, too, who are their neighbors as well as your constituents. I think we can work that out.

I would love a chance to come in and talk to you. We think we can work out a balance.

Mr. HERGER. I'd like to talk with you.

My time is up. You know what we're having because of the drought.

Mr. EVANS. I understand.

Mr. HERGER. The beetles are eating up one-third of the trees in other areas, or almost two-thirds. We have a serious problem. We feel there is no balance at all.

Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from Oregon.

Mr. KOPETSKI. Thank you, Mr. Chairman.

Mr. Evans, we can go back and forth forever, I think, and probably we have, in terms of the amount of old-growth forests that remain or once existed, but I always like to remind people that we have set some of it aside. We call those areas that we set aside "wilderness areas."

I think it is important to remember, when we talk about whether it is 5 percent or 10 percent or 2 percent that is remaining, that the Congress and the American society has taken steps. It has taken steps to preserve some lands in a very natural, pristine state. I don't think you mentioned that, and I think it is a disservice to the Congress of the 1970's and the 1980's when you don't mention that, because those were tough votes for people, and they did make those tough votes, and they did set aside lands of old-growth forests, and we have some of the richest and best of those lands in the State of Oregon.

Now, that lecture over with, maybe you can respond to that.

I asked a lot of questions yesterday about the sufficiency language, about if we craft—if we are going to craft a long-term solution to the problems before us, we're going to have to take some time to do that—maybe 1, 2, or 3 years. If we take that amount of time, we're going to have to do something to allow for some kind of

timber harvest program. I'm curious to know if you have any creative solutions to how we get around all of the various acts and laws that are on the books in some limited areas to have some sort of timber harvest program on a limited basis in the next year or two.

You can respond to my comments, please.

Mr. EVANS. I would like to, if I could, and I'll answer your question, of course, too.

If I had mentioned the wilderness areas protected, Congressman, I would have mentioned that I was involved with most of the efforts in those years, and I would probably have talked about the Mount Jefferson Wilderness in your district, and I would have talked about walking up the trail from Whitewater Creek up to Jefferson Park. What you do is drive through miles and miles of logging and clear cuts of really big trees. You finally get into the trail and you walk into the wilderness boundary and the trees are instantly smaller—much, much smaller—and you go on all the way up to Jefferson Park.

Or you could take the Pamela Lake trail, also in the Mount Jefferson Wilderness. You drive through miles of big trees, which are all on the allowable cut base and are going to be logged, and you walk through half a mile of magnificent trees about 8 feet thick. You've probably been on that trail before. When you get to the wilderness boundary a half mile later, the trees get smaller again. That's the whole point over and over again where the boundaries have always been drawn.

When I worked with Senator Hatfield in 1968 to draw those boundaries, we tried to get Woodpecker Ridge put in there. We tried to get the Breitenbush put in and Devil's Ridge and all those places. They were not put in, and now the owl is going extinct.

We have the reserved areas, as you pointed out, but the owl is still going extinct and the other species, too, because their habitat was, by and large, left out. Not every place. You have the Middle Santiam, which is a wonderful place and very important in your district. It is one of the best ancient forests I have seen, but it is small and it is surrounded by a sea of clear-cuts, private and public.

That's what I would have said, had I—but I appreciate your comments, and I understand them. You know them better than I do in lots of ways.

On the sufficiency question, we are very troubled by that. It is our view, Congressman, that if a forest plan or if a proposal like spotted owl protection habitat conservation areas is legally and scientifically credible, that's the sufficiency. That's the certainty, because we have a system of justice that throws out frivolous claims and won't let them stand in court.

No one can promise that no one will file a lawsuit. I don't have control over that. There's nothing we can do. We have a free court system. But I'm a lawyer. I can probably pretty well judge that if the plans are sufficient or credible they won't stand up to any court challenge. No one likes to go to court.

In our view, the only reason you'd need sufficiency language is if the plans are not scientifically and legally credible. Then you'd

have to insulate it in some other way, and we would oppose that basis.

You may not have been here when I answered an earlier question where I pointed out that the Audubon Society testified before the Appropriations Committee this year recommending a 1.3 billion board foot harvest level for region 6. That was documented by our scientists out there from Oregon, as a matter of fact, on the basis of all the owl protections, on the basis of removing the inflated inventory calculations. That could be sustained, we believe, and protect the values we're talking about.

We urge this committee to consider sufficiency on a scientific and legal basis, and the rest will fall out quite naturally from it.

Mr. KOPETSKI. And we're trying to achieve that. Let me, as a quick follow up—they put the warning light on me—do you believe that we can harvest, maybe on a selected basis, in the proposed critical habitat areas? We had testimony yesterday from Norm Johnson—and I think the others agreed, including Jack Ward Thomas—that under certain conditions you could.

Mr. EVANS. I'm very leery of it, Congressman, as a general principle for the reason that I have known Jerry Franklin for about 25 years or so, and I have heard his testimony often on that. He only says that this is an unproven concept. It is not scientifically valid to protect a species. Perhaps it could, perhaps it could not. But I'm very leery of applying it across the board.

I testified earlier that the track record of the Forest Service and the other timber agencies is such that they will use any opportunity to get the logs out, no matter what, and that's why we are winning these lawsuits right now. So I am leery of it. I would like to see some experiments and demonstrations elsewhere than in the reserves. I wouldn't say we couldn't. Maybe we could after that, but I'd like to see that first.

Mr. KOPETSKI. In a transition period not in a habitat conservation area, but in a proposed critical habitat areas, would you rule it out?

Mr. EVANS. As opposed to a reserve?

Mr. KOPETSKI. Right.

Mr. EVANS. In the reserves we would certainly oppose it. In the critical habitat area I'd be willing to see what credible scientists would come up with and see that, and then I'd say maybe yes and maybe no.

Mr. KOPETSKI. Depending on where it is?

Mr. EVANS. Yes.

Mr. KOPETSKI. Thank you.

Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from California.

Mr. PANETTA. Thank you, Mr. Chairman.

I don't have that many questions. I'm just beginning to come from budget issues and begin to focus on this issue.

Let me ask something. One of the things that occurs to me is that one of the pressure points that is going to result as a consequence of this entire debate are pressure points on bills like the Endangered Species Act, as well as the forest management proposal. Is that a legitimate concern?

Mr. EVANS. Do you mean the concern that because of the controversy around this issue there will be pressure to amend the Endangered Species Act later?

Mr. PANETTA. Yes. My whole sense in terms of looking at the politics of both having to deal with this issue, as well as a reauthorization of endangered species, as well as the concerns that have been raised about the Forest Management Act, etc., is that I don't think those are isolated issues. I think they're all part of a bag of concerns, and that's not to say those concerns aren't legitimate, but I think the consequence of the battle over this bill is going to determine, to a large extent, what happens on endangered species down the road.

Mr. EVANS. Right.

Mr. PANETTA. I think that's something that groups like yours have to be concerned about.

Mr. EVANS. It's on our minds a lot, Congressman. We're aware of that. I think it is ironic, in a way. My opinion is it is because this law has worked. The Endangered Species Act has actually protected species, or it can protect species, and we can understand that offends some interests who have their interests impacted by that.

The answer is not to shoot the messenger or throw the baby out with the bath water, but try to see if we can arrive at a new way of doing things that involves protection of species and the economic interests.

I do know that in the Senate, for sure, and probably in the House, as well, some of those who support the timber industry's vision of the national forest are trying to organize all those who are opposed to the Endangered Species Act, and we will expect a major battle on it next year.

I'm hopeful, though, that this committee, in working with all of us, can work out a solution that really will protect not just the forests and the species, but also the human ecosystem and the ecology of these small communities.

The solution can't be to log it all off until it is gone and then there are no jobs and no ancient forests, either one. The solution really has to be to protect those jobs in other ways, like transition to second-growth economy and the ancient forest that is still left.

Mr. PANETTA. I think you are absolutely right. I think obviously all of us are interested in trying to find that balance. The problem is that balance isn't that easy to find. Having said that, I think this is really a test. What we do on this issue will be very much a test for the issue related to endangered species and what happens down the road. If we do a lousy job on this one, you can bet your lives that there is going to be a major attack on that legislation.

Mr. EVANS. I think there will be an attack anyhow.

Mr. PANETTA. I think in the process of trying to find the proper balance here, we are going to have to keep all of these elements in play.

Thank you, Mr. Chairman.

Mr. VOLKMER. I have a few more questions.

You mentioned, Mr. Evans, that you testified before the Appropriation Subcommittee for 1.3. Is that actual for cutting this year—in other words, harvesting? Or is that for sales, contracts for future years?

Mr. EVANS. That was our recommendation for fiscal year 1992 ASQ, Congressman; not for actual cutting this year, but for what new sales could be sustained on a sustained yield basis.

Mr. VOLKMER. You said harvesting, and I wanted to clarify.

Mr. EVANS. Good point.

Mr. VOLKMER. That's not harvesting that you're talking about.

Mr. EVANS. Yes, sir. I meant sale and ultimate harvesting.

Mr. VOLKMER. That's fine.

We had testimony yesterday from the Forest Service that estimated the same amount be available for sale under Judge Dwyer's order, on top of everything else. That's approximately what they estimate—1.2 or 1.3, or something in that extent. There is no disagreement in that.

Now, there is a little minor thing here. I remember last year some of the people were talking about how we have to preserve the ancient forest, and one of the things they said we had to preserve was the Pacific yew because of use of its bark and some research that is going on at the present time. I don't know where the Pacific yew is located. I supposed it is on the west side. It will be in areas that will be set aside. Now we're going to be able to cut the Pacific yews to get the bark?

Mr. EVANS. Are we going to be able to? Is that your question?

Mr. VOLKMER. Yes.

Mr. EVANS. Yes. Clearly this is, to us, one of the prime examples of why we shouldn't log the ancient forest any more, because here is one medicinal property that can really save human lives. Probably the yew tree, which was considered a weed tree by the agencies for a long time, may be the most valuable tree in that forest over time. I hope it will be.

Our view is that the yew must be used for scientific purpose to save human lives. We have a two-step concern here, Mr. Chairman: First, that the BLM and the Forest Service immediately survey the sold sales they already have under contract right now to see where the yew is. As you know, they considered it a weed species for a long time—just clear it off and burn for slash right now.

We would like them to harvest what they need from the sold sales and not burn it for slash any more. We estimate that would take care of the needs of science for the next couple of years. Beyond that, our position is very strong. We don't have any problem with harvesting the yew inside old-growth reserves as long as we don't kill the goose that lays the golden egg.

With your permission, I'd like to put into the record an editorial from the Eugene Oregon Register Guard which said it is far better to harvest the yew carefully so we save several hundred lives a year forever rather than to save 1,000 lives right now by logging it all off.

Our concern is not use of the yew tree; it should be used. Our concern is rushing in too fast and destroying it before we can find out ways to synthesize the product from its bark.

Mr. VOLKMER. You're not saying, are you, that the yew is only on land that is proposed to be harvested within the next 2 years?

Mr. EVANS. No. What I am saying though is that if the species distribution of the yew tree is what we think it is, on those lands to be harvested in the next 2 years ought to be sufficient yew bark—

yew trees and yew bark—to meet the needs of the scientific researchers for the next couple of years while we can work out a long-term yew harvesting plan.

The problem right now is that those who are harvesting the yew want to go in the ancient forests and the roadless areas first. We say that should be second and not first. The first should be places that are already slated to be logged anyhow.

Mr. VOLKMER. Well, there is no question in my mind that there is some disagreement, of course, on this. It is just another matter of where we get the yew.

Mr. EVANS. Right.

Mr. VOLKMER. It is going to be in both places.

Mr. EVANS. It might be.

Mr. VOLKMER. I have no further questions.

The gentleman from Indiana.

Mr. JONTZ. Thank you, Mr. Chairman.

Mr. Evans, I thought you might explain more about the maps that Audubon members and others have prepared. What is the status of those maps, and how might they be useful in the process of determining how ancient forests can be protected in the long term as viable ecological systems?

Mr. EVANS. I can do that quickly, Congressman.

About 4 or 5 years ago we were surprised to find out that when we asked the Forest Service or BLM no one had any answers about how much ancient forest old growth there was, so we went out and raised private funds and our own private efforts. We had about 200 people, Congressman, in Washington, Oregon, and northern California who have been making maps in the last 3 or 4 years, using Forest Service data but translating it into what is ancient forest and what is the biological value there.

Mr. JONTZ. Let me interrupt you very briefly. You used Forest Service data?

Mr. EVANS. We used Forest Service data. We have very good cooperative relations with the Forest Service. Our people are instructed very carefully to work with rangers and others. We have very good relationships. As a matter of fact, the agencies are now using our data. As we are using their data, they are now using our maps and they are paying us for our maps, in some cases—east side, west side, and in northern California, and the Sierra, also.

What the maps show are, first, where the remaining ancient forest is, and what the foresters call mature sawtimber, which would be smaller but also part of that system. Second, what they show is where all the clear-cuts and logging are right now and where it is scheduled, so you can have an overlay and you can see, of the groves we have now identified of ancient forest, what is not going to be there in another 2 or 3 years. This helps decision-makers decide what they are going to do about this, if anything.

The third thing it does is identify where the species are—spotted owls, bears, salmon spawning habitats, connecting corridors, and things like that. There are other overlays that do all that.

So at a glance, looking at some of these maps, a decisionmaker can see where the trees are and where they aren't, and where they are not going to be or where the logging is planned. The patterns

almost fall out when you look at the maps, Congressman, because you can see how they flow together in certain places.

I have a number of these maps in my office now. Our mappers are preparing them. They are in various stages. We'd be glad to furnish what we have to the committees. Some of them are complete and some are not, but they are coming along pretty fast. I have told them to hurry up.

Mr. JONTZ. And these maps are on the west side forests, the east side forests—

Mr. EVANS. They are on all forests—31 national forests and 5 BLM districts.

Mr. JONTZ. Every land unit that is encompassed in H.R. 842?

Mr. EVANS. I believe it is so. Yes, sir. Every land unit. Every forest in the Pacific coast States and BLM district that has ancient forest in it.

Mr. JONTZ. That's quite an undertaking. I think that the maps would be very helpful to the committee and hope that we can extend an invitation to bring those maps in for our consideration.

Mr. EVANS. Thank you.

Mr. JONTZ. Did I understand you correctly to say that you believe that environmentalists, scientists, and industry could sit down and work on some east side proposals that would be appropriate for consideration by this committee?

Mr. EVANS. I didn't say east side, exactly, although I'd like to do that. Our maps already show where the ancient forest is on the east side, and, as I pointed out earlier, the east side, especially ponderosa pine, are much more threatened and much more in danger of extinction, in our view, than the west side species. But yes, we'd like to try to do that.

In fact, in the Umatilla National Forest there has been a task force sitting down together for some time trying to work out various ways of working together. We would welcome that. I'd love to do it in a place like the Auger Creek pine ancient forest in the Fremont National Forest. The Forest Service is now scheduling that to be logged. It is probably the biggest and best stand of ancient ponderosa pine I have ever seen in years of going around the Northwest. It is scheduled to be logged in July some time. We wish there was some way to work that out.

Yes, I'd like to try to do that.

Mr. JONTZ. I think that this committee has been impressed with the complexity of the issue on the east side. I will speak as one member: it is confusing to sort through the different views that we have heard. I want to see if I heard you correctly. You don't really feel that the opinions we have heard from Jack Ward Thomas or Jerry Franklin are all that much different from your concerns, and you feel that it is possible for environmentalists to sit down and work with the scientists on this and other parties that are concerned, such as the industry?

Mr. EVANS. Certainly it is. I know from the scientists' testimonies that our views are not that far apart. We all agree the east side is a very endangered ecosystem that is in danger of collapse and something has to be done very soon. We could all sit down and work up something that would clarify the issues for this committee and what is at stake here, and we could do it fairly quickly, too.

I'm hopeful that this committee will try to solve the east side question in any legislation, as well, and we can do it this way.

Mr. JONTZ. So it is not an impossible situation?

Mr. EVANS. Not at all.

Mr. JONTZ. You think it is a problem that can be solved, and you have volunteers and members of your organization that would be able and willing to participate?

Mr. EVANS. We have a whole network of very knowledgeable people out there, Congressman, who can——

Mr. JONTZ. That have on-the-ground knowledge from having done this mapping program?

Mr. EVANS. That's right. They've been there already.

Mr. JONTZ. Thank you.

Mr. VOLKMER. Any further questions?

[No response.]

Mr. VOLKMER. I have two, and then we'll let the other gentleman from Oregon ask some questions. This was just brought about because—Mr. Evans, whatever we do in this legislation, whatever happens, as has been said earlier—and I think you pointed out to some extent—there is going to be severe disruption in a lot of small communities throughout the Northwest. We had testimony yesterday about it. It has already started. There are going to be some communities that are going to be gone unless we do something. If we do something, it is going to cost a lot of money. That's the only way we can do it.

The chairman of the Budget Committee just informed me that whatever we do is going to be subject to the pay-as-you-go provisions, in his opinion, and last year's Reconciliation Act. That means I have to come up with the money in order to pass the legislation. Do you understand what I'm saying?

Mr. EVANS. Yes, I do.

Mr. VOLKMER. We're not going to be able to do it with no export laws. You can forget that. Any other ideas?

Mr. EVANS. I'm not sure I would like to forget that. I think that, as I said before, politically—that's probably what you might be saying—politically you might forget it, but it is still unconscionable to a lot of us, Mr. Chairman, that 3.6 billion board feet of logs are exported without even a log export tax on them, and then the public forests are expected to make up the difference. That's not right. But there might be another idea or two. For example, we can cut the budget for forest roads and transfer a lot of that into this——

Mr. VOLKMER. Let's look at the practicality of it up here how it works. We don't have jurisdiction over doing anything about those export logs. This committee has none. Interior has none. It is the Ways and Means Committee that decides whether or not private logs will be exported. The Ways and Means Committee decides whether or not there is an export duty put on any logs exported out of this country, not us. Knowing the makeup of that Ways and Means Committee, I think you're going to have a very serious problem getting it done. Knowing the attitude of the President of the United States from past discussions when we did the State lands bans, etc., on private logs, I think we'd have a real serious problem.

I think we are evading the issue when we say we can solve this by just denying exports of these logs from private lands, and therefore all those logs would move into the system and we'll take care of the communities.

Mr. EVANS. I understand that. I guess I'm just offering it as such an obvious thing, even though you're pointing out, as you need to, the political difficulties in doing it. It is still there. Judge Dwyer said it was there. Everybody says it is there.

A quick thought, Mr. Chairman. This committee does have jurisdiction over forest roads. We spend \$200 million or more every year on building roads at taxpayers' expense, usually into places that at least we don't want them to go into to cut down trees and devastate wildlife that we don't want done. That is a jurisdictional element. Perhaps this committee could look at the forest roads question on an interim basis and switch the money from there. That's a lot of money to put into this program.

I think Mr. Rust is coming after me. As a county commissioner from the affected area, I believe he has a number of proposals in this regard, too, and I hope you can explore them with him.

Mr. VOLKMER. I'm going to ask you a question. You've been very helpful in working out and trying to solve the problem of the old growth, the problem of the national forests in the Northwest, etc. But in resolving that issue we create other problems, and I want you to help resolve that also. Do you understand what I'm saying?

Mr. EVANS. I do, and I appreciate that.

Mr. VOLKMER. I think it is responsible.

Mr. EVANS. That's a constructive way to do it. We will help. We can help. I know a number of our organizations already have their best people looking at it. I think we can come up with a solution.

We all know—and this committee recognizes it—the solution is not to keep on logging the rest of the ancient forest. The disruption is going to happen at the end of that period of logging, anyhow. Let's make it less and minimize it right now. We think we can do that, Mr. Chairman.

Mr. VOLKMER. The last thing I'd like to discuss is—we have a colleague down in New Mexico by the name of Bill Richardson. I don't know if you know about it or not, but they had a problem down there with the Mexican owl in the national forest. He has just told me about 2 weeks ago that they had resolved it and had a solution on one of the national forests. Yesterday he told me he had a solution on another national forest by sitting down and getting the national forest people and environmental groups and industry groups and timber people and everybody together and they've worked it out. They worked out a solution. Don't you think that's great?

Mr. EVANS. I think it's great. By coincidence, Mr. Chairman, I was in Angel Fire, New Mexico, in Mr. Richardson's district, the Carson National Forest, just last weekend. I met with him. He spoke to all of us about that. He went out of his way to compliment my organization because our representative there was one of those who helped fashion that agreement. I think it is a place called Elk Mountain, and the timber sale there.

That is the way to go if we possibly can. Maybe they have caught the issue in time to work out something that takes away from the timber primacy emphasis of the Forest Service and has a multiple-

use emphasis for wildlife, too, that will avoid these problems. I much prefer that.

We may have gone beyond that point in the Northwest already, but anywhere we can encourage that we would like to.

Mr. VOLKMER. Does anybody have any further questions?

The gentleman from California.

Mr. HERGER. Just on one point we were talking about. We were talking about roads. Mr. Evans, are you aware—I'm not sure what the percentage is, but I believe it is over half of the money that is going to roads is actually for recreational use and allowing people who want to be able to get in and enjoy the beauty of our mountain areas and timber areas to be able to have access. I want to point that out. There are many of us who would like to see us putting more money into that area to allow access not only for timbering, but also for people who'd like to enjoy the forest, as well. I'd just like to point that out.

Mr. EVANS. Congressman, I hear your point. I respectfully disagree at this point in time in 1991. There are already 368,000 miles of roads in the National Forest System. You can go to the Moon and halfway back on the logging roads inside the system. There is a lot of access already out there in your part of the world, too.

We don't believe we need any more access. You can go to high places, you can go to low places, you can go to forested places and everywhere else already on the roads out there. The extra roads there are really to get the timber out.

I am aware that the Forest Service accounting system credits them to recreation, but if there were no timber there to cut down they wouldn't build those roads. That has been the situation everywhere.

We disagree. We think we have come to a point of very diminishing returns on that at this time, Congressman.

Mr. HERGER. The other side of the coin is that if they hadn't put those roads in originally for the timbering, people would not have access to those areas, so it does work both ways.

Mr. EVANS. I agree. It's a point of diminishing return. That's my point. It's not that no roads are necessary. Some were. But now we think 368,000 miles of roads is more than enough.

Mr. VOLKMER. I have no further questions.

Does the gentleman from Oregon, Mr. DeFazio, have any questions of this panel?

Mr. DEFazio. Thank you, Mr. Chairman. I appreciate the chairman allowing me to sit with the committee.

I have a question for Mr. Evans.

A couple of years ago in this same room I remember we had testimony on this issue, and obviously events have moved fairly dramatically since that point in time, but we always kind of got to the bottom line in the questions because we're trying to provide something to both sides of this debate, and that is certainty regarding the preservation of old-growth ecosystems and the owl. On the other side, is some sort of certainty for those dependent upon the lumber and wood products industry.

At that time, as I remember, we were asking witnesses what they estimated to be a sustainable volume off of the national or public lands in region 6. Brock gave a fairly high number—or at

least I think he would consider it so now. I'm curious now. You say your views are not that far apart, as you said earlier, from Mr. Thomas and the scientific people. Mr. Thomas, when he first released his plan last year, said that he estimated that the harvest under his plan could come out around 2.6 or 2.5 billion board feet.

I'm curious. What's the number you would give us today in terms of a sustainable harvest that incorporates the degrees of protection that you would like to see? Maybe you can give us what you consider to be—I don't know how to say this. I'm sure you've got a bottom line and I'm sure you've got a negotiating position, but if you could be as candid as possible it would be helpful to those of us trying to put something together.

Mr. EVANS. You're right, Congressman. We have all learned a lot and advanced in this issue in the last 4 or 5 years since we first came before this committee. We have all grown together and learned together about what is at stake and the various ways of defining and evaluating the issue.

To answer your direct question, we testified in front of Mr. Yates' subcommittee a few months ago and offered an allowable sales quantity level that we felt was sustainable, given all the factors—the owl protection, the east side concerns, taking out the inflated inventories which counted lakes and rocks and ice as part of the base when the base wasn't there, minimum management requirements, and things like that. Most of our analysis was done by Dr. Mark Liverman, who you may know, from the Portland Audubon Society. He spent a lot of time studying it. We came up with a figure of about 1.3 billion board feet for fiscal year 1992 allowable sales quantity level.

It is our best judgment at this time that could be sustained at least for this year. In the long term—and I understand your concerns about interim and how we are going to get to these concerns—our view is that the scientific elements have to be the first part of the equation. What is necessary to protect the ecosystem so we don't end up in court over and over again on these things? After that, I think the land, itself, and what it can do can be documented by the professional foresters and others.

That's our best estimate, Congressman, of what we think we could do right now, and it is a real number.

Mr. DEFazio. What's the split between west side and east side on this 1.3 billion?

Mr. EVANS. I don't know if we did it like that. I will be glad to get it to you.

Mr. DEFazio. What is the point of departure? Is it using the proposed forest plans? It is using some other alternative as a point of departure in terms of the proposed forest plans? Does it give any cognizance to the proposed forest plans?

Mr. EVANS. That's a good question. We start with the proposed forest plans. That's the point of departure.

Mr. DEFazio. I don't know if you heard Dr. Johnson yesterday, but in reviewing the plans he looks at the plans and notes that there are particular areas where partial cuts and other things were recommended for view-shed management or other things, and if you go to alternate harvest practices over a larger land base, he believes that there would be considerable redundancy in some

parts of the forest plans in terms of proposing the area for partial cut. If you overlay a new management regime on top of that it wouldn't be necessary to retain the assumptions of the partial cut in that section in the plan. Or, alternatively, there are areas that in the plans currently are considered to be unsuitable, but they are unsuitable for traditional harvest practices, i.e., large-scale clear-cutting, but possibly not for selective cutting, particularly if helicopter logging or something else were conducted.

Did you revisit the plans and look at those sorts of assumptions that are in the plans, where there would be overlays, where there would be duplication, where perhaps you could actually gain back a little bit in developing this analysis? Are you aware of whether he did that or not?

Mr. EVANS. I don't think he went into such things as view sheds, although I think he had a factor for recreation, scenic trails values, and things like that.

You might not have been here when I introduced into the record the logging that the BLM recently did over one of its scenic trails near Roseburg in the North Umpqua scenic trail area. We didn't count that sort of thing. I think we did look at all the biological and ecological factors, and that was the basis for those numbers.

That's one reason I have to say, Congressman, why we have strongly supported H.R. 842, because, as you know, it provides a process which is a formula for resolution of these kind of concerns on a forest-by-forest or district-by-district basis. I have always believed that it is going to be difficult to solve it across the whole region, because there are local factors like the view sheds and other things like that where, if the parties sat down together with overlays, some of these things might fall out in the way you are talking about, and local parties agree.

The example I always think of is twofold from my own State of Washington—the Alpine Lakes Wilderness issue, and the Mount St. Helen's National Monument issue where, for years, ourselves and the industry disagreed with each other and Congress. We couldn't get a resolution. Finally we sat down together and drew boundaries drainage by drainage without the agencies present, and we actually reached what I would call political solutions, but we found we had a fair amount of overlap. The peace has been kept in those areas because we actually were able to do it on an area-by-area basis.

I think that sort of thing could be accommodated quite well by that process in H.R. 842.

Mr. DEFazio. So, most of the assumptions that were made brought the numbers down. There is some possibility, under the assumptions you are using, if the plans were revisited, that this number might have some upward movement in a scientifically supportable basis, because there may be some duplication or other things in the plan which were intended to cause or protect certain values that are now better protected because of the massive overlays that are being proposed?

Mr. EVANS. It would very well be. I think a scientifically credible group looking at this might find some overlays. I wouldn't know right now, but it is possible.

Mr. DEFazio. Thank you.

No further questions, Mr. Chairman.

Mr. VOLKMER. I want to thank this panel. You have been very helpful, and I look forward to working with you as we develop the legislation.

We will now conclude this panel.

We will now go to the next panel, which consists of: Mr. Jay Power, legislative representative, American Federation of Labor and Congress of Industrial Organizations, Washington, DC; Mr. Donny Scott, staff economist, United Brotherhood of Carpenters and Joiners of America, Washington, DC; and Ted Rabern, business representative, Local 2949, Lumber and Sawmill Workers, Roseburg, Oregon.

I appreciate your patience. For those on the later panels, you need to have patience, too.

Your prepared statement will be made a part of the record. You may either review that in full or summarize, however you so desire.

We'll begin with you, Jay.

**STATEMENT OF JAY POWER, LEGISLATIVE REPRESENTATIVE,
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUS-
TRIAL ORGANIZATIONS**

Mr. POWER. Thank you, Mr. Chairman.

I'll attempt to be as prompt as I can in completing my formal statement and let my colleagues have their turn.

Mr. Chairman and members of the subcommittee, my name is Jay Power. I am legislative representative for the AFL-CIO, representing more than 14 million working men and women.

I appreciate the opportunity to come before this subcommittee today as you examine the issue of forest management of public lands in the Pacific Northwest. May I say as an aside, Mr. Chairman, on behalf of the AFL-CIO, I commend you and the committee for setting up these broad-based hearings. I think they have provided a very useful function and will help the process considerably.

The national AFL-CIO supports efforts in this Congress to resolve the timber crises, which are based on environmental integrity and economic reality. There is no question as to the value of old-growth forests and the species that inhabit them. Protection of endangered species such as the northern spotted owl should remain a top priority of our Nation's environmental agenda. But protection of jobs, timber-dependent communities, and a vital domestic industry—the forest products industry—should be given no less attention in legislation regarding forest management.

By any standard, the impact of some of the current proposals on employment in the region would be catastrophic.

We also must not ignore the impact of timber supply on our Nation's housing market. Every American deserves the opportunity to purchase an affordable home. Since 30 percent of our Nation's timber comes from the Pacific Northwest, drastic curtailment in the volume of domestic timber could mean higher housing costs, especially at the lower end of the market. This would be a further body blow to the Nation's construction industry and workers, who are already suffering double-digit unemployment rates.

Mr. Chairman, in February of this year the executive council of the AFL-CIO adopted a resolution supporting a national forest management policy which "balances the protection of the environment and the habitats of endangered species with the livelihoods of the tens of thousands of men and women who work in the wood products industry, their families, and the communities in which they live."

I request, Mr. Chairman, that the complete text of our AFL-CIO executive council statement, "Timber Harvesting in Public Lands" be made a part of the permanent record of this hearing.

Mr. VOLKMER. Without objection, it will appear at the end of your testimony.

Mr. POWER. Thank you, Mr. Chairman.

Consistent with that stated policy, the AFL-CIO supports the recently introduced Forest and Families Protection Act, H.R. 2463, and the companion measure introduced by Senator Packwood. In our view, H.R. 2463 is the best legislative vehicle before the Congress for addressing the timber supply issue in all of its aspects. Because the Forest and Family Protection Act embraces the principles of environmental protection and economic stability, we believe it deserves serious consideration by this subcommittee.

Other proposed legislation before Congress, such as the Ancient Forest Act and the Ancient Forest Protection Act, does not address the various components of the issues in a comprehensive manner and we believe are deficient.

We look forward to working with members of the subcommittee and of the full Congress in support of H.R. 2463 and a balanced national forest management policy.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Power appears at the conclusion of the hearing.]

Mr. VOLKMER. We will now hear from Mr. Denny Scott, staff economist, United Brotherhood of Carpenters and Joiners of America.

STATEMENT OF DENNY SCOTT, STAFF ECONOMIST, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

Mr. SCOTT. Thank you very much, Mr. Chairman.

I'm an economist with the United Brotherhood of Carpenters and Joiners of America. Our union represents about 600,000 workers in the United States and Canada, about 30,000 of which are dependent upon Pacific Northwest wood supplies.

We are here today to express our support for H.R. 2463. I'd like to take a few moments and give the committee an overview of that legislation. Before doing that, I want to point out that this bill is a joint effort. It is a joint effort by our union and by the International Woodworkers of America and the timber industry. After a great deal of work, we think we have come up with something that deserves serious consideration before this committee.

It is a fair bill. It is a balanced bill. It addresses forest management issues in a comprehensive manner. The Forest and Family Protection Act addresses all of these components: One, old-growth reserves; two, spotted owl protection; three, Timber Sale Program

stability, and; four, a displaced worker and community economic adjustment program.

The measure has two major parts: An interim portion, and a long-term plan. We are proposing that the interim plan run for 3 years. This bridges us through a period of time necessary to revamp, look at, study and battle over Forest Service plans that we can reach the point that plans are, indeed, comprehensive and deal with those outstanding issues on the northern spotted owl and old-growth reserves.

The first step in this interim process is to set aside existing plans so that we can begin working on the plans and set up an interim management system that abides by and lives up to the Endangered Species Act, and with some of the intent in some of the proposed ancient forest legislation that would recognize old-growth reserves.

Second, we recommend that Congress grant interim protection and certainty for ecologically important, unfragmented old-growth forests during the 3-year period.

We propose that we begin with the acreage set out in the Thomas report as significant, unfragmented old growth, with the exception of the second growth that happens to be put in that Thomas report. The second growth that is included in the Thomas report is in the neighborhood of 43 to 45 percent of the total.

Third, we endorse the concept of a minimum timber sale program with floors for each national forest and BLM district. We have not inserted numbers in our proposal, and that is for good and valid reason. We think we need to determine the number that will minimize economic dislocation in the region, and a number that is totally consistent with and correlates very carefully with the kind of reserve that we set up for old-growth forests. What we are trying to do in this scenario is develop a timber base where we can maximize some timber harvest and some management not in the reserve for the 3-year period, but rather out and beyond so that we don't have a disastrous economic result. The sale minimums have to be credible and realistic. They ought not to be political numbers grabbed from the air.

Fourth, compliance with the Endangered Species Act would be accomplished through programmatic consultation on each timber sale program. It is our hope that this can be done on a programmatic basis as opposed to a sale-by-sale basis.

Fifth, the industry would engage in extensive research on what has been termed "new forestry."

In terms of the long-term program, the long-term aspects of H.R. 2463 are based on the assumption that BLM and Forest Service will revise their land management plans over the course of the 3-year interim period, and in due course integrate the spotted owl recovery plan in the process.

There have been substantial problems with the Forest Service's inability to implement completed Forest Service plans. This is less so in the Pacific Northwest than in other areas, but at this point this is where our bill moves to the national forum, and we feel it is very, very much desirable. Once you mandate plans and you develop extensive rules on how plans should be developed and you take extensive public input to do that, the current legislation does not

give very good guidance as to how those plans ought to be implemented. We feel there is a need to add some stability in that area.

The purpose of H.R. 2463 is to establish a long-term program that would: One, provide a rational process to revise and implement Forest Service and BLM plans; two, define the role of national forests and BLM lands in contributing to resource supply needs and economic stability; three, establish old-growth reserves and introduce old-growth protection and management as a long-term, multiple-use value; four, reconcile Forest Service and BLM planning processes with ESA recovery process. That seems to be a feature that is missing in some of the other legislation before this committee, and; five, maintain research on old-growth forest values.

The other piece of this proposal I want to address in this brief introduction is the economic adjustment portion. We worked very hard on this section of the bill. It is essential. It must be a part of any solution that we arrive at, in our view.

We hope that our bill, H.R. 2463, as I mentioned earlier, does, in fact, minimize the dislocation, but in the event of job dislocation and community disruption, we are proposing a 6-year program that would assist communities and workers that are impacted. We are suggesting that a fund be established by allocating a share, a portion, a percentage of the Timber Sale Program that would be dedicated to economic adjustment. Funding here is a problem.

We groped with different alternatives and finally came to this because of the correlation between removing old-growth reserves, the impact on timber sales, and the resulting negative impacts on employment. It fits.

We would establish the fund under a three-member commission in the States of Washington, Oregon, and California. People who currently do this work would apply to this commission to do projects in impacted communities for workers in those communities. A central feature of this is the recognition that people have difficulty moving, so a great effort is put into stabilization and providing some measure of economic diversity in those communities that are impacted. Funds would be made available to study alternatives, to look at different structures and different products—the whole array of things that might be available.

The other piece of it has to do with worker training. We think this problem is unique enough to justify a broad-based skill upgrade program that goes beyond current and limited JTPA programs. Our proposal authorizes those kinds of mechanisms to do more genuine skill upgrading, genuine job training, not just turnover and trying to get people into new employment at one third of their current wage.

Our proposal allows the supplement of unemployment insurance for people who are in the training programs. It provides a base-level health care plan for people in training so that they can, indeed, afford to undergo training. It would also pick up job search expenses and relocation expenses.

That's a quick overview. It is spelled out in more detail in our statement.

But, overall, our union believes that this legislation represents the best hope in achieving some kind of lasting solution. It is more

than a short-term, interim solution. It has a long-term feature to it. It provides adequate protection for those who must suffer the economic consequences of environmental protection and would add a solid measure of certainty which both the industry and the workers desperately need.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Scott appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you, Mr. Scott.

Mr. Rabern.

STATEMENT OF TED RABERN, BUSINESS REPRESENTATIVE AND FINANCIAL SECRETARY, LOCAL 2949, WESTERN COUNCIL OF INDUSTRIAL WORKERS, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

Mr. RABERN. Good afternoon.

My name is Ted Rabern. I'm the business representative and financial secretary for local 2949 of the Western Council of Industrial Workers, affiliated with the United Brotherhood of Carpenters and Joiners of America, AFL-CIO.

I have worked most of my adult life in the woods in Oregon. My local union, based in Roseburg, Oregon, represents more than 3,000 lumber and sawmill workers employed in the forest products industry.

I appreciate this opportunity to testify today on behalf of the membership in the great State of Oregon, and particularly to speak for the thousands of timber workers and their families in the Pacific Northwest whose fate hangs in the balance, whose lives are intertwined with the forests in the region.

Mr. Chairman, I am here today to express my union's support for the Forest and Families Protection Act, H.R. 2463. Our international union has helped develop this important legislation, and we believe that it deserves the support of this subcommittee.

The timber industry is the State's largest, employing more than 110,000 Oregonians. What we do in the Northwest—better than any other region in the United States—is produce wood products. Oregon is the Nation's No. 1 producer of lumber and plywood. The Northwest provides more than 30 percent of all lumber materials used in the United States. That's a lot of wood. It means raw material to build and furnish homes in which you live, pulp products for diapers, toothpaste, coffee filters, and even the reams of paper that I see stacked all over this Hill.

According to the 1988 Department of Commerce figures, over 607,000 U.S. workers are employed in the forest products, pulp, and paper industry. When allied industries are included, the forest products industry supports over 1.6 million workers.

Federal Timber Program benefits provide the economic foundation which supports rural communities in Oregon and other Northwest States. Programs provide funds for public schools, road work, and essential government service. I assume all government services are essential.

Our communities suffered through some 39 mill closings in 1990, at a loss of over 3,500 jobs. I submit to you today that each one of

those jobs—when a person loses their job, not only do they lose but their spouse loses and their children lose, and anybody in that family—be it a single-income family, be it a single parent—loses.

Another 49 mills have curtailed operation recently, which cost 2,450 jobs. It is estimated that for every four millworkers displaced an additional logger is put out of work.

In my home of Roseburg—actually, that's a misprint. I live in Canyonville, Oregon, which is approximately 24 miles south of Roseburg, but it is a big city of 1,200 and it is not very well recognized. My house, in fact, is in the middle of an HCA, which hasn't benefited anybody except for my eldest son, who refuses to mow the lawn because he wants to protect the mice that the owl may feed on. [Laughter.]

We are in negotiations on that now. I have taught him well as a union leader.

At the Roseburg Forest Products Plant Sawmill No. 2, some 150 workers are wondering, as we speak, what will become of them. We received a 60-day notification of permanent closure. This comes in addition to some 200 workers who have been out of work for at least 6 months due to the plague of partial shutdowns. That means 350 families—not just workers or figures, but 350 families—from my local union whose lives have been torn apart who are waiting for Congress to come up with a solution that addresses their needs.

Too many milltowns in our State have become ghost towns. Our State officials list 158 of our communities as timber-dependent, and I submit to you that that's a lot of my friends, neighbors, and relatives. That's the reason I am here today.

Our timber workers are among the most productive workers in the country, and they respect the forests they live in and work in. They have a deep commitment to family, community, and country. We're not asking for unemployment or a handout; we just want to keep our jobs and keep our self-respect.

Timber workers are special people. In fact, the University of Washington sociologist professor, Professor Robert Lee, has testified that traditional American values of independence, hard work, risk-taking, and inventiveness characterizes timber workers, and these traits make it especially difficult for them to adjust. They are not as mobile as urban workers, says Dr. Lee, who spent 5 years studying the timber communities in the Northwest. Dr. Lee warns of family problems, substance abuse, even suicide. It is already happening.

I submit to you today that our sister union in Coquille, Oregon, had a 60-year-old member, and when the plant closed in Coquille that he had worked at most of his adult life, that man, after a few months of unemployment, became so depressed and so despondent because he could no longer feed his family, he could no longer meet his obligations and pay his bills—and he was 2 years away from the great American dream which says we should all be able to retire some day and live off the profits of our labor—he went in the bedroom and stuck a 308-caliber rifle in his mouth and blew his head off. And people wonder why we get a little compassionate in the sticks of Oregon where we live and walk on a daily basis with people.

I've got people that walk with me every day of my life in these last few months. I have never been as outraged or impassioned on a subject in my life, with the exception of a strike.

I have members who last week came in and met with our Governor of the great State of Oregon to explain some of the trials they are going through, and my hope is that she certainly was affected.

I have members that are single parents whose children have been hit by uninsured motorists after they ran out of insurance benefits, benefits provided through their jobs in the wood products industry and good union contracts.

I have a member whose wife contracted cerebral palsy, and this was found out after he lost his insurance.

I have members who can no longer rely on paychecks to feed their children; instead, they are going to Government subsidy programs within our schools to feed their kids. I don't say it is a bad deal, and I don't say that we are too proud to take a handout, but to me it is ridiculous when there is no need for it.

I heard the Governor of California on TV the other night, and he said the best social program in the world is jobs. I guess that's one of the things we're doing back here today—asking you to come up with some sort of solution that will include people, the very foundation of this United States of America, and include our jobs.

I guess I'll get back to my text.

After several months of frustration, that occurrence happened over in Coquille. I don't rally around that man's death, but I tell you it is something that needs to be expressed.

My hopes are today that each one of you at some point during these hearings would take a few minutes and reflect how you would feel if it was your friends, your neighbors, and a great deal of your family that was being thrown into chaos.

Dr. Lee says older workers will suffer the most. Unfortunately, it will probably be those people who have devoted their entire lives to the trade, people who have always called the forest their home, as well as the source of livelihood, who will suffer the greatest hardship.

Roseburg residents and others worry that unemployment from halting logging on public lands for any sustained period would increase alcohol and drug abuse and break up families. Dr. Lee put it well when he told lawmakers of Salem that people aren't marbles who simply roll across the table and fall into the proper slots.

Mr. Chairman, this is a very serious game of marbles, one in which votes are cast, and then tens of thousands of players are supposed to pack up their marbles and go home. Our homes may not be there, our families may not survive, and our children won't find jobs in their home State. Our future is not in our hands, it is in yours.

My members in Roseburg, the county seat of Douglas County, asked me to bring this message to you today. Douglas County grows more trees than any other county in the United States and depends on timber for two-thirds of the county government's revenue. Already some people there who depend on the timber workers to support their businesses are pulling up stakes. They know timber dollars support regional businesses.

So, does timber supply affect autoworkers in Detroit, construction workers in the west, papermill workers in New England? Yes. We are all players in the same game. We are all affected by projections like the one that claims lumber prices would conceivably double by the year 2000 and price us all out of the housing market.

All of the numbers I have given you, statistics without faces, don't even begin to address the huge economic effect of proposed cuts in timber supply. If I could have brought some of these workers with me and asked them to speak to you today and share what they tell me every day, express their concerns to you directly, I would have. If I could take you home with me and show you what I walk through on a daily basis, I would. But somebody told me before I came in here that wasn't a proper offer to make.

My hope is that I have carried their message effectively and that you'll hear their voices when you consider enacting timber supply legislation, you'll consider their needs along with the needs of the environment, because, after all timber workers and their families are an endangered species here, as well.

The focus of ongoing debate has been protection of the northern spotted owl, and there is momentum now for further preservation of old-growth forests. But the issue is not whether the spotted owl and old growth should be protected, but rather how to accomplish these goals while preserving the jobs and communities that depend on the continued harvesting of timber in public lands in the region.

The needs of timber workers must be considered along with the needs of the environment. We face perils on the job each day, but the uncertain future that we face has no rival in fear.

Our union has been involved in ongoing efforts to save our communities, which led to the introduction of H.R. 2463.

Mr. Chairman, we appreciate your efforts to seek a solution to this difficult issue. We are still committed to resolve this crisis. We believe our proposal provides a framework of legislative solution which reflects the interests of all concerned parties.

Thank you very much.

[The prepared statement of Mr. Rabern appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you very much for that testimony. Mr. Rabern, we surely appreciate that testimony. It is the first we have heard from someone who has had some actual experiences of what is going on out there to some extent as far as the individual people out there.

The person that was 60 years old and worked at a mill, was he laid off because the mill modernized?

Mr. RABERN. No, sir. He worked at GP Coquille. It was shut down because of lack of timber.

Mr. VOLKMER. And what was the reason for the shut down?

Mr. RABERN. Because lack of timber supply and they had some renovations to do in that plant. Actually, they couldn't do the renovations because the timber supply wasn't there to make it feasible. That's my understanding.

Mr. VOLKMER. Where does their timber supply come from?

Mr. RABERN. Public lands.

Mr. VOLKMER. National forests? BLM? What?

Mr. RABERN. Yes, sir. And some private. I believe GP does have some private in that area. I am more familiar with the people, actually, than with the machinery or the process.

Mr. VOLKMER. Now, almost all of the proponents that I have heard have said—and I find it in Judge Dwyer's opinion—they pass off this thing as something that is going to happen anyway. These things are going to happen. The mills are going to shut down. You're going to have the loss of jobs whether the spotted owl is protected or not. Do you agree or disagree with that?

Mr. RABERN. Sir, I disagree. I think I heard in yesterday's testimony some talk of automation being a great cause of loss of jobs. I can tell you personally the workers that I represent work for Roseburg Forest Products. That is a company that we have always hailed as a champion because they have put millions and millions of dollars back into their plants. We like to see that because that means they are not going to cut and run. They are staying for the long haul. The same man has been at the helm of that company for over 60 years.

What happens is that we may lose six people off a green chain to an automatic stacker, but we continue to have 250 people in that plant employed, which is better for our communities and for all of us.

Mr. VOLKMER. Are you finding in your area in Oregon that there is beginning to be a shortage of timber from the public lands for the mills?

Mr. RABERN. Yes, sir. That comes with the notification of the sawmill that I referred to in my testimony, and that has been stated to us as the cause.

Mr. VOLKMER. Cause was lack of available timber?

Mr. RABERN. I believe the exact letter stated market conditions and timber supply. There is a place where market conditions play here, but because of the timber supply driving up the cost, it is pretty hard to make a nickel and they can't keep it open.

Mr. VOLKMER. The price of timber, of course, has gone up out there as a result of all this also?

Mr. RABERN. Yes, sir. It is my understanding that's true.

Mr. VOLKMER. Yes.

Mr. Scott, do you all have—you have mentioned your support, and I understand that support for H.R. 2463, because I understand you feel that you'll have a lot more jobs under that bill than you will under H.R. 842 or H.R. 1590; is that correct?

Mr. POWER. That's correct, Mr. Chairman.

Mr. VOLKMER. You also have an economic assistance proposal in that bill, while Mr. Vento does, but I don't believe Mr. Jontz has any in H.R. 842 at all.

Mr. POWER. I don't believe that's the case. No, Mr. Chairman. We do support—we were pleased that Mr. Vento included economic assistance in his legislation, and we commend him for it. We do sincerely believe, however, that the program put together in the Huckaby bill, the bill that we are here to testify on, is superior to that.

Mr. VOLKMER. You don't have a position on H.R. 842?

Mr. POWER. We are opposed to Congressman Jontz' bill and would work for its defeat.

Mr. Chairman, I wonder if I could use this opportunity to comment on a statement by an earlier witness, my old friend Brock Evans from the Audubon Society.

Mr. VOLKMER. Yes.

Mr. POWER. I think it is significant about the way this debate is so often discussed. In his testimony he so often referred to the proposals that we are here to testify about as the industry proposal. The industry proposal. This is the labor/industry proposal.

One of the attitudes that we see all too often from our friends in the environmental community—and one can only infer it when this kind of terminology is used—is that somehow we in the trade union movement are incapable of independent thought that is not provided to us by the employer, and that is simply not the case. The AFL-CIO and the carpenters' union, for which I had the honor to be the lobbyist for 8 years, took a very careful look at this proposal and made an independent judgment to support it.

I point out further as an example of that, last year in the Clean Air Act we were approached by major segments of the chemical industry to oppose the toxic section of that bill. We did not do so. We were approached by the automobile industry—I'm sure Mr. Panetta remembers this—to oppose the so-called "California tailpipe standards." We did not do so. Now, we certainly did support the acid rain provisions and the permitting provisions and others of the Clean Air Act.

The trade union movement is perfectly capable of researching and evolving a position on an issue that is not a parrot of the employer, and I would like to make that clear for this committee. We are here with our employers in a joint effort that was entered into freely because we honestly believe it is the best solution to this very contentious problem.

Mr. VOLKMER. All right.

Mr. Rabern, I'd like to ask you a question, since you've lived out there all your life and know where the mills are and those 138 dependent communities. If in the future available timber for harvest in Oregon is reduced by 60 to 75 percent, what happens to those communities?

Mr. RABERN. My gut feeling would be they would be reduced by the same 60 to 70 percent. The rural communities?

Mr. VOLKMER. Yes. I'm talking about where you live, with 1,200 people. What is there in that community? Just tell me about that community right now.

Mr. RABERN. There is no manufacturing in the community, itself. We commute to Riddle to a plywood plant, to Riddle to two sawmills, and to Dillard to other plywood plants. There is a small mining facility in Riddle also that's close. In Roseburg, where my office is, there have been two businesses come into town—one was Bayliner Boats, and one was Alcan Cable—as diversification or an indication that we are working toward diversification. But the two of those businesses combined hire right at 500 people, I believe it is. Just one of our sawmills has that many people in it. When they advertised for workers for 15 positions they had 200 people come and sign up. It's devastating.

We're proud of the fact—especially the good union wages that we make in that county, and that's the prevailing wage because the

prevailing employer is totally, wall-to-wall organized. And we're proud of the benefits that help to sustain our community such as good health insurance and those things. Without the primary industry, there is no secondary industry.

There is a particleboard plant that I represent the people at, and I had this same conversation with the Governor last week. You can't have that secondary industry, which flakeboard or particleboard is, if you don't have the sawdust and the shavings off the planer from the mill and off the saws that cut the lumber, and then there is no secondary industry. It is kind of a big ball of wax that we get caught up into, I fear.

Mr. VOLKMER. Now, yesterday we had testimony that most of the purchasers of timber off of our public lands in the Northwest are basically small business people. Is that correct?

Mr. RABERN. I'd say that's correct, although I think Roseburg Forest Products is a larger business. I believe they are the largest privately owned sawmill in the United States. They do purchase public timber also, but they also have their private lands, which are now being set aside, too, in my understanding. But the smaller mills don't have the private land because they don't have the money to invest in it.

Mr. VOLKMER. You have a lot of those smaller mills, do you not?

Mr. RABERN. Yes, we do.

Mr. VOLKMER. Roseburg is big, but you have a lot of small mills.

Mr. RABERN. We do.

Mr. VOLKMER. The reason I asked that is that yesterday one of the representatives of the Sierra Club Defense Fund up in Seattle characterized our Northwest public lands as being run by timber barons. Do you have a comment on that?

Mr. RABERN. Yes. The same people that own those mills and manage them live in the same small communities, have evolved over the years, and are somewhat philanthropists, if you will. They have helped a great deal to build churches, to support community organizations, projects such as we in the union started as Operation Desert Care to send packages to our troops overseas. I don't foresee them to be timber barons. They don't live in huge castles or big mansions. They live in the same houses in the same neighborhoods we do. They walk the same streets and drive the same cars—when we can talk them out of foreign imports.

I think there may have been a day—and there may still be. I have to refer, again, to the local area because I am from a local area, but no, I don't see any big timber bosses or timber barons, destructionists, or whatever they have been termed as. We don't agree all the time, and we definitely don't get along all the time, but they're good people and they're not somebody that stands up and lords it over you and takes money and comes to New York City, or whatever. They live and operate within the communities the same as we do.

Mr. VOLKMER. They do.

The gentleman from Washington.

Mr. MORRISON. Mr. Chairman, let me thank these three gentlemen, since they are here as representatives of organized labor. I think without your leadership, gentlemen, and your working with the industry—I know you don't always get along that well, so this

is a marvelous exercise—that the Northwest delegations could not be moving as we are now to put together a package that we think will provide the goal of certainty for the people you represent and also the people we represent. So my very special thanks to you. It gives us a greater flexibility that I think all Members of Congress will appreciate. By the way, we have been listing it as the labor-industry bill.

Mr. POWER. Thank you, sir.

Mr. MORRISON. I could ask all kinds of questions, but I know the bill that has been introduced by Congressman Huckaby and a number of my colleagues very well. Of course, I think that one of its great strengths is what you do for the planning process to make it actually work. That's the only way we finally get down the road.

I wanted to take the time I have to inquire about economic assistance. You have the greatest level of experience in what can be done that actually helps. I look at your town of 1,200 people, Mr. Rabern. That's big-time stuff for some of the communities I represent where you may have 50 or 100 people living in an area.

I get the feeling these folks don't want to leave. Maybe we can shatter some of the illusions today about just sending money to those towns and saying we are going to retrain them for something. What do you retrain for? As far as I can see, in many cases you are just inviting people to leave town.

Do existing programs like JTPA work in that kind of a setting? Who has the most experience with that?

Mr. RABERN. Denny, go ahead.

Mr. SCOTT. I'll comment. We had a great deal of experience in the forest products industry with JTPA during the deep 1982 to 1983 depression. It was our experience that under those programs, when we had closures, one, we didn't get enough advance notice. Early entry is the key to having success in these programs. Early entry can even sometimes prevent a closure. I think our economic development programs are becoming more cognizant of that fact. They get in, and if there are some management difficulties or cost difficulties, they can be addressed early on and maybe save an operation.

We also found that we needed up-front money quickly in order to study alternatives. Where we did not have feasibility money and plants went cold and machinery moved, the chances were nil or zero that we could ever get it up and running on any basis.

There are situations that I think you can change from a corporate structure to some other ownership structure in order to maintain an economic base. We have actually participated in some studies—ESOP, part ESOP—as an alternative. They are willing to accept a somewhat lower rate of return in order to maintain that employment base in a small community.

Those are strategies that I think ought to be made available and funded under this program so that it does, indeed, address that very tough question of generations of people not wanting to leave these communities. We see that as a key feature of our economic adjustment program.

And then, in addition, part of the downfall of JTPA was that it was called retraining but they didn't do very much training. What they did was to get people into sessions and teach how to write re-

sumes and how to job search and how to read the want ads and just turn people over. That was the standard by which JTPA was judged.

When you do that, you don't assist that family or person. Some of the better programs—and this is interesting because we are in a construction union—put together linked the building trades apprenticeship program with dislocated workers and communities. We were able to put some of those people in the second and third year of the apprenticeship program and put them to work. They had to travel, but they could still live in their communities and travel in and out at a liveable wage with good, solid employment.

That's the long answer.

Mr. MORRISON. That's fine. You included some points that are really very helpful.

I noticed in your bill that you included this concept of providing a source of funding and then a regional or local group of people to make some decisions about what sort of economic assistance would actually fit that community, as opposed to falling back on some existing programs.

Mr. SCOTT. That's correct. We did that with due consideration. A part of it was to allow us to do a broader, more expansive program than would be available under the Department of Labor JTPA Program. Second, we think we can deliver funds more expeditiously and meet needs. It is our hope that the programs would be better coordinated.

In the Northwest we talk about a contiguous ecosystem of old growth. We've got a contiguous ecosystem of working families. I think we ought to approach this economic adjustment program in that fashion somewhat, if we can.

The degree of cooperation between those States on manpower programs in the past has been minimal, and we would hope to encourage better cooperation.

Mr. MORRISON. Mr. Chairman, I would hope that the record could indicate that some of the existing structures that might work in Detroit and elsewhere and New York City, very frankly, though in many cases they've got a good track record, just don't fit the circumstances that we most likely will see from whatever we do here as it relates to this issue.

Mr. VOLKMER. Would the gentleman yield?

Mr. MORRISON. I'll be glad to yield to the chairman.

Mr. VOLKMER. We had some testimony on the final panel yesterday evening, and the State of Washington has already started on a program. We have asked them to work together with representatives in Oregon and California and come back with us, and we'll look at that as well as fitting that in with what you all have here, because I think what you are at least proposing in your bill there is a little more comprehensive and a little more thoughtful based on what you said, Mr. Scott, from past experiences in developing economic assistance.

I have come to the conclusion that there are workers out there, but there are other people out there besides just the workers. There are the people that run the grocery stores and the gas station and everything else. If a town closes down, they don't have anything either. The small millowner doesn't get unemployment. If

he shuts down he is out all together. There's nothing there. We've got to think of all those people and devise a program that fits them all. We can't just say we'll give everybody extended unemployment and they'll live off unemployment for a year. That's no answer.

Do you agree that's no answer?

Mr. SCOTT. Yes, Mr. Chairman. I wholeheartedly agree. Unemployment is certainly not the answer. It is degrading, it is humiliating, and it is debilitating.

Mr. VOLKMER. Right.

Mr. SCOTT. And sometimes death-causing, as Ted was saying.

I appreciate those comments about our proposal. We do consider it to be comprehensive and we try to address some of those problems. In fact, the eligibility rules that we have built in not only would allow directly impacted workers to retrain and upgrade and engage in those programs, but also secondary workers in those same communities.

Mr. VOLKMER. Right.

Mr. POWER. If I could just supplement something Denny said, there was plant notification legislation a couple of years ago. The second title of that bill, which received less attention than the notification title, was a package of aid for economically dislocated workers. At the end of that process you may well recall that we had, in fact—by “we” I am referring to the proponents of the legislation and the labor movement—had reached an understanding that there would be a funding level of some \$900 million to accompany that legislation. This was with the clear understanding that the administration and everybody felt satisfied with that level.

The actual funding that finally got submitted through Congress was \$300 million, and the actual money that was appropriated was in the range of \$100 million to \$200 million.

Obviously, the funding constraints that impact every aspect of congressional life are not going to go away. As my colleagues have indicated, the proud men and women of this region of the country would much prefer to have their jobs and to keep their lives together that way, but if Congress is going to intervene through a positive act and change the permanent landscape of their lives, then we contend that there simply has to be a component, as there has been in the past, to provide for transition for these proud men and women.

Mr. MORRISON. Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from Indiana.

Mr. JONTZ. Thank you.

Let me commend all of the witnesses on this panel for the excellent package which has been put together with regard to economic transition.

It seems to me that we need this sort of assistance regardless of what the Congress may decide to do so far as the ancient forest goes. You know I have said that before. I think a good case can be made that the unemployment that is being suffered right now and has been suffered for the last couple of years is a result of Government action. We have had documented before this committee failure by the agencies to follow the law. We know that has resulted in adverse economic consequences.

We heard yesterday that during the middle 1980's the sales quantity in region 6 was half a billion to 1 billion board feet more per year than what was compatible with the plans as they were eventually adopted. I think that the Government has some responsibility for being lax in ensuring that the level of timber harvest was compatible with what was sustainable over a long period. I think that the Congress, because of these past mistakes, owes the assistance to these workers regardless of what happens with ancient forest legislation. I think that the package you have put together is very good.

At the hearing in public lands a month ago I had not had a chance to study it. I have had a chance to study it now, and I endorse it.

As each of you know, from the beginning, when I introduced the Ancient Forest Protection Act about a year ago, I said that it should be passed with an economic component. You all have tried to imply in your testimony and on other occasions that I was not sensitive to the situation facing workers. I think that we have come to this position the right way, which is for you representing the workers and for the Governors representing the States and for the Members representing the districts to bring forward economic provisions which make sense for you. I think that's proper. I could have written economic provisions a year ago, but they wouldn't have been nearly as good as the ones that you wrote, so I appreciate that.

At this point, it is clear to me that we have a package in terms of the economic provisions which makes sense; the package includes retraining; the package includes extended unemployment benefits; and the package includes job search expenses and relocation.

We have heard many concerns that folks would sooner not be retrained. They would sooner not be moved. They would sooner not have to collect unemployment. Workers in my district feel the same way, but it is better to have these benefits than not have them. I dare say this is a much better package of benefits than what the workers who are going to lose their jobs in the Mexican Free-Trade Agreement are going to get. I think you'd probably agree with me about that.

Mr. POWER. I certainly do.

Mr. JONTZ. I know your union will be fighting and the AFL-CIO will be fighting to get the best possible package for folks who are now losing and will continue to lose their jobs from our trade policies with Mexico.

I want to commend you on this package and make clear in the record my support for the economic transition provisions.

Mr. Scott, you have said in your statement the "dilatatory administrative and legal appeals have all but halted the Timber Sale Program." The GAO conducted a study in February 1989 examining the appeals process in Forest Service regions 1 and 6. As you know, that's Oregon, Washington State, and part of Montana and Idaho.

The GAO found—let me read these findings to you. "One, appeals of forest plans did not delay any timber sales. Two, only 6 percent of the total timber sale volume offered in regions 1 and 6 in fiscal years 1986 and 1987 was appealed. Three, less than 1 per-

cent of the total timber sales volume was delayed by these appeals."

Moreover, the GAO concluded that when delays did occur nearly all were caused by the Forest Service's failure to meet the required deadlines.

Is the problem the fact that appeals are allowed? Or is the problem the fact that the agency doesn't have its act together?

Mr. SCOTT. Congressman, I think it is a combination of several things, but to look at that GAO study, that's a few years ago. I think we all agree in this room that lawsuits have virtually halted timber sales in 1991 and delayed sales in 1990. I think it is unrealistic to say otherwise. In fact, this bill goes to that issue.

I think we need to do something in the planning and the appeal process so that we can meet a sale program, we can meet all the requirements in endangered species, and not forego timber sales.

Our aim in this piece of legislation is to try to come to a solution where we can do that, and we do it on the basis of trying to achieve a programmatic merging with NFMA, endangered species. There is no forest planning at this time. The forest plans that are on the decks are almost virtually ignored. We are trying to come to a system whereby we can merge them together, bring them together, develop a plan, and let everybody fight about the plan. And then, if lawsuits come later, allow the suits be brought against the plan.

It seems to me to make little sense to perpetuate this deadlock, that we have now in the courts.

Mr. JONTZ. Well, do you agree or disagree with Judge Dwyer's opinion that the agencies have been involved in systematic and deliberate violation of the law?

Mr. SCOTT. I don't agree entirely with that. In part, certainly, but I think there is enough blame to go around outside the agency, as well as inside the agencies.

Mr. JONTZ. Well, my bet is that if this sort of systematic and deliberate violation of the law were being committed by OSHA or being committed by the Department of Labor or being committed by some other administrative agency, that you wouldn't tolerate it, that you would come to the Congress and insist that the agency start following the law.

Why we should start changing laws because agencies choose not to follow them systematically and deliberately is beyond me. If OSHA decides systematically and deliberately not to follow the law, does that mean we should change it? Of course not. I realize that there are different circumstances, but I think that to conclude that an agency should be excused when they engage in systematic and deliberate violation of the law is not the way our system should work. To me, agencies should be expected to follow the law just the same as private citizens, and I know you feel that way, too.

Let me ask Mr. Power a question, if I could.

By and large does the AFL-CIO feel that people have too much access to the courts in this country in terms of seeing that agencies follow the laws under which they are supposed to operate?

Mr. POWER. The best answer I can give you, Congressman, is that I have many faults, though I happen not to have the fault of being an attorney, for which my sainted mother is still very proud. I don't mean to deflect your question. It is a legitimate question. I

don't know if it is center to the reason we are here today. Clearly there are rights and privileges under the laws of this country that are in place. Could they be impacted by this legislation or other pieces of legislation pending in this committee and other committees? They could. Does the AFL-CIO have positions on RICO, OSHA reform, judiciary matters? We certainly do. I don't know how else I can answer your question.

There are rights and privileges that are there. We believe they work reasonably well. And we also believe we have the right to comment upon them when we think they aren't working reasonably well.

That's the best answer I can give you.

Mr. JONTZ. Does the AFL-CIO by and large support the idea that there be two classes of citizens with regard to their rights to go to court to get the law upheld—one, the class of citizens which was involved initially in comment on some administrative action, and two, the class of citizens which was not? Do you think that is a basis under which we ought to be classifying citizens so far as their ability to have access to the courts of this country to see if the law is upheld?

Mr. POWER. I'm at a loss, Congressman. Is this your characterization of events? I'm at a loss to what you are referring to.

Mr. JONTZ. I'm referring to H.R. 2463.

Mr. POWER. Well, if you are asking us to retract our support for the legislation we're not.

Mr. JONTZ. No, I'm not asking you to do that.

I'm asking you to explain it.

Mr. POWER. We think that the—I'll defer to my colleague who is superior to me in the page-by-page of this bill. We are convinced that the recommendations in this bill are the best way to proceed. That certainly does not mean that we are closed to suggestions for improvements, to suggestions where we have made a mistake, to make this proposal more successful.

Our goal was not to have it introduced and come here and testify and have a photo taken for our in-house newspaper; our goal was to have it introduced to be duly considered and to hopefully work with this committee and others to solve the problem.

If there are perceptions and realities about the legislation that are deficient, we would encourage them to be pointed out to us. I'm positive that our dear friends in the environmental community will, and I would hope that the members of this committee will, as well.

If Denny wants to respond to the specific part, I would urge him to.

Mr. JONTZ. Sure.

Mr. SCOTT. Certainly. We searched for a method to try to prevent this deadlock. This is the method we arrived at. We don't think we are depriving any citizen of a right to be heard or a right to go to court. We know very well this is a very controversial, delicate issue, and would not advocate that anyone be disallowed due access in the courts.

We are willing to look at other alternatives, but it seems to us to be eminently fair when developing a Forest Service plan that if proper notification is given to all interested parties, that there

ought to be some consideration given to that in terms of future suits brought over and over again on what seems to us to be the same issue.

Mr. JONTZ. Well, you know that to get an injunction in the courts you have to show that the agency was arbitrary, capricious, or violated the law?

Mr. SCOTT. That's right.

Mr. JONTZ. You know that you have to prove standing in other ways. You know that the conditions to get an injunction are very, very difficult. I really think that labor is serious about this package. I am not suggesting that you have signed your name onto something that you don't fully understand, but it does seem to me to be quite at odds with the view that organized labor normally takes in this country, which is courts are there to see if the law is upheld.

For instance, we had testimony yesterday with regard to this ability of going to court to enforce the law with regard to individual actions under the plans that the agency, itself, couldn't foresee what the individual actions are, and then you would put this barrier up to prevent citizens who for some reason would be expected to know more than the agency.

I would be delighted to sit down with you and go through these provisions because to me most all of this business in here about amending NFMA is a red herring. That's not the real problem. The real problem is that the agencies have ignored the laws, the agencies have made bad decisions about the amount of resource which could be utilized. You are paying a very heavy price for that right now, and so is the environment. That's what we are here to try to solve.

My time has long expired, but I would like to sit down with you and go through these provisions, because I don't think that anyone's interests are served by negating the means by which we have in this country to see that the law is enforced.

Mr. SCOTT. With all due respect, Congressman, there is nothing in our bill that prevents an injunction from being sought and, indeed, imposed. I think you have perhaps overstated your case, maybe to make your own.

We do not deny people access to the courts in this bill, and I think it is a misnomer and erroneous to indicate otherwise.

Mr. JONTZ. You put up barriers to access to the courts. There are restrictions. We will have the opportunity, I'm sure, this afternoon to go through these. I won't take the time now, but there are numerous cases of restrictions that are put up. I would welcome the opportunity to talk to you about them.

Mr. POWER. Congressman, I just want to echo Denny. We certainly are—you are more than entitled to your characterization of the bill. We look forward to working with you on those provisions. I would only hope that, having heard you endorse our economic assistance portion of the bill earlier today, that within a very short period of time you may well be endorsing the rest of our package.

Mr. JONTZ. I think that's wishful thinking.

Mr. POWER. I'm quite an optimist.

Mr. JONTZ. If the rest of your package had anything near the merit of the economic transition provisions, that might be true.

Mr. POWER. Hope springs eternal. Thank you, Congressman.

Mr. VOLKMER. The gentleman from Oregon.

Mr. SMITH. Mr. Chairman, if I wanted to camouflage my position as a preservationist and move everybody out of the public forests in the Pacific Northwest and it would cost us 100,000 jobs, do you know what I'd do? That's not a very savory position, so I would make sure I blamed somebody else and deflect the issue. I'd blame agencies or Government. I'd blame everybody but the people that I supported. Of course, the statement that appeals in the Pacific Northwest have not delayed timber sales is atrocious.

But then, in order to offer you a sop, I'd suggest that we have an economic recovery package. I want to provide you unemployment for 6 months. That's what they did in West Virginia in the coal fields. Extension of unemployment for 6 months. And then I'd say now we've got to retrain because you no longer have a job, so we're going to retrain you.

They forgot about the bus ticket out of town. They forgot about the value of your house in your little community. And they forgot about the drugstore and the grocery store.

I would offer you that hoping that you would succumb to the idea that you are really not being hurt that badly, that——

Mr. VOLKMER. Would the gentleman yield on that?

Mr. SMITH. I'd be happy to yield to the chairman.

Mr. VOLKMER. You forgot one thing.

Mr. SMITH. I'm sorry.

Mr. VOLKMER. The whole problem is log exports.

Mr. SMITH. Oh. [Laughter.]

Thank you, Mr. Chairman, for reminding me.

I know the position of labor on this issue, but it is very hard for me to understand how a Weyerhaeuser Company that resides primarily in Washington State, if we prohibit them from selling logs to Japan from their private lands, is going to help me in Burns, Oregon, where we don't export any logs to Japan but depend upon 95 percent public lands.

But, aside from that, you see, I think this is a grand scheme to try to offer to the people in the Northwest that we have hurt you but we're going to offer these little crumbs so you don't think you are hurt so badly. I'd suggest that when we lose the No. 1 industry in the State of Oregon we are hurt bad, and when you walk out of Roseburg with no timber supply you have involved the whole town, plus the labor force, plus most of the communities I represent in the State of Oregon.

Enough for that sort of position, but that's what I would do to cover my rear end, and hopefully you would understand that.

I wanted to ask you especially about the Community Stability Act that I have introduced, as you know. It seems to me that the Endangered Species Act enacted in this country in the 1970's ignored totally the economic impact to the country. And then we have the critical habitat designation of 11.3 million acres in the Pacific Northwest, which has never included an economic impact. Finally, the labor management bill does put people in the scenario. I want to ask you if you have looked at the Community Stability Act, because that has been hanging around here quite a long time, and the first time that I can find that we've got people back in the

scenario. Basically it says if you are going to displace all these people you've at least got to phase it in.

Have you looked at that, Mr. Scott?

Mr. SCOTT. We certainly have. In fact, you'll see some features and some principles of that incorporated into the labor-management bill, H.R. 2463. We certainly did. I think that's a very important equation. The whole notion that the Forest Service ought to include economic stability as an objective for communities is important. Absolutely.

Mr. SMITH. Anybody else? Mr. Power.

Mr. POWER. I concur. That element should be central to an answer so it is community-based. One of the earlier witnesses quoted the oft-quoted cliché about "I'm from Washington and I'm here to help you." That's when your hair starts to turn white and you lock the doors. I think, while the reality of "I'm from Washington and I'm here to help you" isn't going to go away, it is often modified by genuine community involvement.

Mr. SMITH. Well, my time has about expired, but I just want to say to you people for this Republican who has been involved in this process for 30 years—by the way, the AFL-CIO has never endorsed my campaign, nor probably should they, nor am I asking—I believe that your involvement in this issue may well save the day because without labor's involvement people East of the Mississippi River are running with a free hand in this wild feeding appetite—the preservationists—to gobble up all the public lands, to eliminate our opportunity to make a living, to ignore the fact that it is a renewable natural resource. Without your involvement, this thing could have totally gotten away from us. With labor in it, you are going to be heard. I'm proud of you for being here and I'm glad to be associated with you on this issue, if it may be only one.

Mr. POWER. Congressman, may I say I want to thank you for your comment. In terms of any future endorsements, as I said to Mr. Jontz, hope springs eternal. [Laughter.]

Mr. VOLKMER. I would like to make a few comments. One of them is that those of us that last year supported the Civil Rights Act, including the gentleman from Indiana, it has a provision in there that says that you have class actions, and if you don't participate then you are forever precluded, and he voted for that and I voted for that. Basically it is if you weren't originally a party, and it is similar to what you all have in your bill. It's a very similar thing. I'd just like to mention that.

I believe we need to look at these things not in general, but as they apply in specific instances in specific laws. What we are talking about is a matter that concerns the management of the national forests. It doesn't concern OSHA or anybody else. I think we need to look at it in that perspective.

The other thing, Mr. Rabern, that—if you do have some time, and I know you are quite busy—what has concerned me with this whole process for the last year is something that you and Jay and Mr. Scott have finally brought forward to this Congress, and I just hope that the few of us listening here aren't the only ones that have heard what you said today.

In my past experiences and the hearings we held last year, the testimony—and I daresay even if you take Judge Dwyer—Mr. Rabern, have you read Judge Dwyer's decision?

Mr. RABERN. No, sir, I haven't.

Mr. VOLKMER. I'd like for you to read it. I think you may come or may not come to the same conclusion that I did, but he has a part in here, "economic and social consequences," and then he goes on through paragraphs 37, 38, 39, and all the way up through 50. I read part of it. I came to the conclusion that it is very similar to what I have heard in the past from some of those who have proposed support for Mr. Jontz' bill, and that is there are going to be losses in jobs in the Northwest even without the ancient forest and even without the spotted owl. Those jobs are going to be gone, and the best way to save the jobs is to stop the export of logs and replace that timber. I don't know how that logic follows. If you're not going to lose the jobs anyway because of the loss of timber, why would you have to stop the exports to get the timber? Do you understand my logic?

Mr. RABERN. Yes, sir.

Mr. VOLKMER. But they don't do that. Even this morning, if you read Mr. Evans' testimony, I don't find anything in his testimony and I haven't found anything in the testimony of the gentleman from Wilderness last year or any other environmental groups that ever once really came up with a program as you have for economic assistance. Not once have they come up with a valid program to say that we need to do something for these people, and it is going to cost us a lot of money to do what needs to be done for the environment in the Northwest, and we need to be prepared to spend the millions and millions of dollars that it is going to take to relocate people, to find them new work, to find industry or something in those towns.

It came to today, in my opinion, with your group finally coming up and bringing out what needs to be done.

Mr. Rabern, I'd like for you to read Judge Dwyer's parts in there. I have come to the conclusion that—really what I call short shrift to the people that will be hard hit by this legislation. Even under the bill that you are supporting, you are going to see reduction in timber harvesting in the Northwest. There is no question about it. There is just no way we can stop it. It is going to happen.

So if it is going to happen, we need to do something for the people in the Northwest that are going to be adversely affected, because it is a public policy to do this. The Congress says this is what we are going to do, the judges have already said it, the laws say we have to do it, the judges are saying that the agencies didn't list the spotted owl as an endangered species when they should have—of course, that's a matter of judgment. Many of the people in the scientific community say it is endangered, and others say it isn't. But the judge came to the decision and said you have to list it. Forest and Wildlife listed it. That's a policy decision of the Federal Government.

That policy decision now is impacting on people. I don't care who says otherwise; I think that people are more important than a spotted owl. That's where I come down.

Mr. RABERN. I wholeheartedly agree with you, sir. I would even go further to explain that retraining and relocation money is not a first option in our communities. It is something that will have to be accepted if we do lose our jobs, and we are glad to see provisions made for it, but it isn't our first option. Our first option is to keep our jobs, keep our homes, and stay in our communities where we belong.

Thank you.

Mr. VOLKMER. I don't think a lot of people out there are going to be able to do that.

Mr. RABERN. I don't believe so, either. That being the case, hopefully there will be something else for them.

Mr. POWER. I can assure you, Mr. Chairman, in response to your colleague's previous statement, there may be other issues that get more ink in terms of the AFL-CIO, and certainly the spotted owl portion of this issue tends to get a lot of attention. I just would like to pass on to the committee a quotation that was given to me by our old friend Phil Burton, God bless him, who, if he was around today this might be an entirely different debate. Phil once said about the labor movement that "we're the only institution in Washington that can be a bigger pain in the neck—and I don't mean neck—than I can." We in labor are not going to go away from this issue. We want to see it resolved.

We were talking earlier about GAO reports. I would recommend to the committee they may want to take a look again at a GAO report that was done at the time of the plant closing legislation—a study that was done by them showing the enormous increases in drug abuse, alcohol abuse, suicide, and spousal abuse in communities impacted by plant closings, and especially communities where they were basically single-industry communities. The human quotient in this issue is just as valid as any of the maps and the figures in the east side and the west side as anything else. We are going to be tenacious in making our case.

No one has indicated that we have all the right answers, and we don't pretend that we do. But we are not going to go away.

Mr. VOLKMER. The gentleman from Indiana.

Mr. JONTZ. I do have additional questions.

I guess my position from the beginning has been that it isn't a choice between jobs and owls; that we do have the means to meet needs within the community for people, as well as to sustain ancient forests; that, in fact, the long-term wellbeing of people and the environment is impossible without finding some means of sustaining the ecological systems upon which we depend.

I really don't know why those who say that we can and should do both are criticized for having no concern for people. I don't think that's true. I think that the supporters of H.R. 842, my bill, have said from the beginning, as I have, that economics has to be part of the package. As I said earlier, I am pleased to see such a well-crafted package come before us today, because I don't think that I could have written a package nearly as good. My hope is that labor, the Governors, the congressional delegation, and the supporters of H.R. 842, H.R. 1590, and the other bills can reach agreement as soon as possible and go to the appropriate committees of the Congress.

The chairman of the committee is right—of course this takes money. I have said that from the beginning. To suggest that somehow those who support seeing that forests can be sustained on a long-term basis are working against the interest of people is beyond me, because I don't know how people's interest can be served if we don't sustain forests. To take the money out of the bank and have nothing left, rather than living off the interest, to me is a very short-sighted policy and not in the interest of people or communities or the environment. That is not to say that doing those things is easy. I think to do less would not be meeting our responsibilities.

We were all having a good laugh about exports a couple of minutes ago. Let me read you a statement and see if you agree with it.

"To the extent that Pacific Northwest mills have had supply shortages, the problem has been exacerbated by the export of raw logs. About 30 percent of the timber harvested in Washington and 11 percent of that harvested in Oregon is exported. Exports from private lands in Washington, Oregon, and northern California through 1989 totaled 3.6 billion board feet. The exported logs produce no mill jobs or add value in the United States. A ban on exports would not automatically shift every raw log to domestic buyers, but would provide a major source of additional supply."

Do the members of this panel basically agree with that statement or not?

Mr. SCOTT. Let me respond. We dealt extensively in the last Congress with the log export issue from public lands. The true impact of those regulations has not yet been felt.

I would submit to you that the figure of 3.6 that you recited, once those regulations are in place in the States of Washington and Oregon, will be substantially less.

Mr. JONTZ. This was from private lands.

Mr. SCOTT. Numbers. Who knows?

Mr. JONTZ. These were exports from private lands.

Mr. SCOTT. Those are exports from private lands?

Mr. JONTZ. That's correct.

Mr. SCOTT. In our view, you do not receive a 1-for-1 substitution if you suddenly cut off log export.

Mr. JONTZ. Right. That's what this statement says.

Mr. SCOTT. In fact, you may get as little as one-tenth for 1 if you are fortunate. I think it is faulty to assume that you'll get an automatic diversion of an export log into a domestic mill.

We used to talk about watersheds and the areas that made sense in terms of log transportation within the region. Different witnesses have made reference to the fact that if you curtail log export in the north end of Washington State it does not help the log shortage in Roseburg, Oregon.

Mr. JONTZ. We all understand that. Everyone here understands that.

Mr. SCOTT. I don't think that to raise the log export issue today is going to get us very far down the road in terms of resolving this contentious, difficult—what we consider it to be a planning problem. To throw that in the equation at this time is counterproductive.

Mr. JONTZ. Well, do you agree or disagree with the statement that I read to you?

Mr. SCOTT. I disagree.

Mr. JONTZ. Any other panelists want to speak to that statement?

Mr. RABERN. Just the fact that we did work very hard in the State of Oregon to pass legislation that would severely restrict log exports. As an international union, we have always been opposed to the export of raw logs.

The employer for whom my membership works has, himself, made the statement that this is the stupidest country in the world for exporting our raw material, and that the company for which those 3,000 people I represent work has never exported one log ever. They pay a family wage, and we're still going to take it the same as everybody else.

So to put too much emphasis on that—I don't like to see logs leaving our shores in one piece, either. I'd much rather represent those people that cut them, and cut them at home.

Mr. POWER. Congressman, I would just add that the AFL-CIO has supported the position of the carpenters union. We worked with them in the last Congress on the log export problem. I'm not trying to trivialize the nature of that problem. It is as real as some of the legal questions you raised earlier.

Our goal today is to bring attention to the problem affecting these communities. The log export problem is still there. We'll be happy to talk about it, but it shouldn't be a diversion from what is before us today.

Mr. JONTZ. Well, it is 11 percent of the timber that is harvested in Oregon, and maybe 11 percent isn't important, but if you wish not to have that on the table I guess we can take that position.

Mr. POWER. If the chairman wants to have another hearing on log exports, I'll bring my colleague, Bill Cunningham, here and you can have 2 hours of the best testimony you ever heard.

Mr. VOLKMER. If the gentleman would yield, I think I've already expressed that I'm not saying that if we could we shouldn't do something about log exports. This committee doesn't have any jurisdiction over log exports. I can sit here and talk about it all day long. That's the reason I say when we are looking at and addressing this legislation we can only address that which we basically have jurisdiction over.

Mr. POWER. Indeed.

Mr. VOLKMER. Now, if we want to go into it, we can go into log exports, I guess, and we can ban any exports in our bill. If the gentleman from Indiana wants to do that, we'll be glad to do that, but I assure him that the bill thereafter, once reported out of this committee, is bye, bye. If you want to do that, it is going to Ways and Means, and it will go to Sam Gibbons. If you think that Sam Gibbons is going to let the bill out with that import ban in there, then you've got another think coming.

Now, if you want to proceed in that avenue, that's fine, but that's the avenue that Mr. Evans proposed this morning. He spent over 20 lines talking about log exports. That's what I was trying to get to earlier. We can't solve problems that we are creating by trying to create another problem.

Mr. JONTZ. Reclaiming my time.

Mr. VOLKMER. Go ahead.

Mr. JONTZ. Personally, I feel that if the Northwest delegation wants to include log exports as part of the solution, that if they went to and others of us went to Ways and Means it is possible that something could be done. A lot of people didn't think we could get done what we got done last year.

Mr. KOPETSKI. Will the gentleman yield?

Mr. JONTZ. I will yield in a minute.

I have never represented, nor do I believe any of the supporters of H.R. 842 have ever represented that log exports is the answer to the problem, the only answer to the problem. I really don't appreciate having my position characterized in such a way because that's not what I have said. And to deny that log exports is important—which I don't think is a position anybody here has taken—to me would be a mistake.

It is not a total solution. It is 11 percent of the timber in Oregon and 30 percent of the timber in Washington. Maybe that's important to a greater degree or maybe to a lesser degree, but it seems to me it is one factor which ought to be included in the equation.

Obviously, labor is of a different opinion. We have one international that supports a ban on logs. Apparently the lumber and saw-mill workers do and the carpenters don't. If I understand Mr. Scott correctly, the carpenters do not support a ban on logs.

Mr. SCOTT. It's the same organization. There is no difference in our position. Our union for 20 years has been on record and has worked diligently to oppose log exports, to shrink the supply of log exports. We think we made some progress. That may still be on our agenda in 1992 and 1993 and beyond, or it may not.

But what we are saying to you today is that we ought not to be diverting our energy from the current crisis before us. We think that would, and we think that would be counterproductive to this process.

Mr. JONTZ. I appreciate the point. If you think log exports are a diversion, I guess you are entitled to that opinion. That's what you have said, that log exports—

Mr. SCOTT. The point is I don't think you get, for every 1,000 board feet of log export, that log turned around into a domestic mill. You've got the price premium and geographic difficulties—

Mr. JONTZ. Absolutely.

Mr. SCOTT. You've got the species and grade problems, and you've got a whole array of problems.

Mr. JONTZ. Of course. There is no disagreement between us on that. And the statement I read to you didn't imply that we got a 1-for-1 ratio. We both know that you don't. That's very clear.

I yield to my colleague from Oregon.

Mr. KOPETSKI. Just a note, my good friend from Indiana, that not all the Northwest delegation is united in this approach. I oppose any restrictions on the export of logs from private lands. I was a strong supporter of the ban on exports from public lands. There is a distinction, and that's one of private property in the United States of America. I think that's a very sound, positive tenant that we ought to maintain and hold.

Thank you for yielding.

Mr. JONTZ. I have never said there isn't a disagreement within the Northwest. We know that there is, and we know that's why it is a difficult issue.

Mr. KOPETSKI. Mr. Chairman, if you want to move to my right for another comment on the traffic, I'm sure my friend from Eugene will—

Mr. JONTZ. Well, I'm done with my questions for the panel, Mr. Chairman. I appreciate it.

Mr. VOLKMER. Any other questions from the members? Does the other gentleman from Oregon have any questions for this panel?

Mr. DEFazio. Again I thank the Chair for letting me sit with the subcommittee, though I am not a member.

Mr. Scott, there was a lot of testimony yesterday about the volume of timber under contract. I've asked the Forest Service and the BLM to provide me numbers on a purchaser-by-purchaser basis of what they have under contract. They have been unable to generate that in the last month and a half, but I understand I'll have it fairly soon. They haven't been able to turn the computer on.

Mr. Jontz has a printout, but it is not broken down in that manner. Do you have any idea of the distribution and what areas or mills or types of mills or regions might be harder hit in the short term or sooner. Where have those supplies been substantially cut or exhausted? Can you eyeball that at all for me? The Forest Service can't seem to do that.

Mr. Scott. I don't have good personal knowledge of which companies and which mills have adequate supply on the stump and which do not. I know there is quite an array. You have companies that have as much as 2 years on the stump on inventory, and others that are out today. The last estimates I saw among the plant closures—and this is difficult to segment and separate out from the impacts of the current recession—about 10 percent of the plant closings had to do directly with inadequate supply and the fact that their logs had been exhausted. I'm at a quandary, as well, as to the distribution. I would be delighted to see some of that data once it is provided.

Mr. DEFazio. I'm hopeful Forest Service will be able to come up with that in the near future.

Mr. Rabern, we hear a lot about retraining, and I think you began to touch on it a bit when you talked about some of the communities where your members live. But let's maybe pick a typical town. Where do you think the alternatives are in Canyonville in terms of retraining as of today?

Mr. RABERN. Truckdriver school.

Mr. DEFazio. What?

Mr. RABERN. They could go to Eugene to truckdriver school so they could drive over the road, and that's about it.

Mr. DEFazio. So that's what is being touted or offered in terms of retraining?

Mr. RABERN. We recently went through some of these problems. As you know, we met with the Governor last week. Some of the problems we have in our area—in the entirety of Douglas County one of the only institutions for higher education is the community college which, due to funding cutbacks, is not available to offer any summer classes that would help us retrain our workers. I don't

know if even the GED program is going to be available this summer.

Some of the other problems we incur are: If you have a permanent plant closure and it generates a Warren Act, there seems to be some attention given to that plant through JTPA and other organizations. But in the case of our Dicksonville veneer plant and plywood, too, in Dillard, Oregon, those two plants were closed for 5 to 6 months. When they returned to work, there were about 200 people left off work, but unfortunately there was no Warren Act, so those people were just kind of left out there to muddle around until somebody makes a determination that they are permanent.

Mr. DeFAZIO. So you don't share the administration's opinion that JTPA will take care of all the needs in this area?

Mr. RABERN. No. Certainly not.

Mr. DeFAZIO. So that is why in the labor-industry proposal you have what I consider a very substantial and very good section on worker-community assistance, because you don't see the current Federal programs as either being adequate or even adequately funded where they do exist to take care of the problem?

Mr. RABERN. That's correct.

Mr. DeFAZIO. One of the concerns I have is to tell people in towns like that that they are going to have to move to Eugene or Portland. They have chosen to live there, and maybe they are second or third generation. Do you think it would be preferable or possible to provide some alternatives in those areas if we are looking at more intensive silvicultural practices? Let's put it this way: Do you represent any of the guys in the woods, or just in the mills?

Mr. RABERN. We have loggers.

Mr. DeFAZIO. You do have loggers?

Mr. RABERN. They work for the lumber company.

Mr. DeFAZIO. So if you take a logger, in particular, or even a millworker, living in Canyonville or someplace else, if they are offered the option of retraining in truckdriving school or going to work in the woods. It's hard work in the woods doing commercial thinning and precommercial thinning, catching up on some of the backlog of reforestation. Do you think that would be preferable, or at least an additional route that we should be looking at in terms of the solution here—more Federal investment that would provide those jobs where the people live?

Mr. RABERN. I certainly do, not only to the benefit of the people, but to the benefit of the environment. But there again, Representative, I believe that we need to look at all those programs, because each one of those—in this case it would address the younger worker, primarily. The 53-year-old millworker that is a little bit out of shape is not going to be able to climb up and down and clear brush. Maybe the fat business representative isn't going to be able to either—I don't know. I have heard some of those options expressed by our Governor and by your staff, and I certainly believe they are options that are viable and there is a large segment that I certainly believe wants to stay in their neighborhoods and wants to stay where they are. It may not be the No. 1 option, but it is one that is far better than what the alternatives are.

Mr. DeFAZIO. Thank you.

I see my time has expired. Thank you, Mr. Chairman.

Mr. VOLKMER. Thank you.

There are no other questions from the subcommittee.

I appreciate the panel for being here. It has been a long day. I sincerely appreciate it. You have brought forward, as I said earlier, information that has not been fully—sufficiently developed. I think it now has. I appreciate it, Mr. Scott, Mr. Rabern, and Mr. Power, for your testimony.

Thank you very much.

Mr. POWER. Thank you, Mr. Chairman, for your appearance today and yesterday. We appreciate it.

Mr. VOLKMER. I'm glad to work with you as we go through this testimony. I know this is not the end. We are just basically going through a process, but as we develop the legislation we'll be working with you.

Mr. POWER. We look forward to it, Mr. Chairman. Let me restate, as I did at the beginning of my statement, it is traditional in these hearings to thank the chairman for having hearings. Most witnesses generally do that. Let me restate I think these hearings have been extremely helpful—more helpful than any other that I am aware of. I think it will help all of us, wherever we stand on this difficult issue, to move forward. Let me restate that we in the labor movement look forward to working with you and the members of the committee to try to find a solution.

Mr. VOLKMER. Thank you very much.

Our next panel is Mr. Mark Rey, executive director, American Forest Resource Alliance, Washington, DC; Mr. James Geisinger, president, Northwest Forestry Association, Portland, Oregon; and Mr. Mark Pawlicki, director of corporate and public affairs, Sequoia Forest Industries, Dinuba, California.

Your statements will be made part of the record. You may either review the statement in full or summarize, however you desire.

We'll begin with Mr. Rey.

STATEMENT OF MARK REY, EXECUTIVE DIRECTOR, AMERICAN FOREST RESOURCE ALLIANCE, ACCOMPANIED BY JAMES SWEENEY, MANAGER OF WILDLIFE PROGRAMS; AND ROBIN REICH, PROFESSOR OF BIOMETRICS, COLORADO STATE UNIVERSITY

Mr. REY. I'll summarize my statement.

Accompanying me to respond to questions are two people I'd like to introduce: Dr. James Sweeney, the Alliance's manager of wildlife programs; and Dr. Robin Reich, professor of biometrics at Colorado State University in Fort Collins, Colorado.

Usually, Mr. Chairman, we appear before you to describe problems that trouble our members; today, however, I am here with my colleagues on the preceding panel to talk about a solution, H.R. 2463.

I would like to focus specifically on titles I and III of H.R. 2463, but as a predicate I would like to present new data that the spotted owl and old growth are separable issues, as Dr. Thomas opined yesterday.

To date, we have been trying to protect spotted owls using prescriptions for old growth preservation, and we have been doing a

poor job at both, accomplishing nothing but creating further controversy. The new data suggests that we have the opportunity for managing spotted owls in a manner compatible with continued forest harvesting. Given its flexibility, we think we can separately address the concern for the preservation portion of our uncut forests. H.R. 2463 is a legislative representation of these on-the-ground facts.

There are two new sets of findings that form the basis for separating the owl from old growth. First, I have submitted for the record a series of three statistical reviews that point out the inherent weaknesses in the data, assumptions, and conclusions in the Fish and Wildlife Service's status review supporting the listing of the northern spotted owl. The Interagency Scientific Committee's conservation strategy and the more recent Fish and Wildlife Service critical habitat proposal suffer the same weaknesses. All three documents draw from the same body of research and data.

These statistical reviews were conducted by three scientists expert in the application of statistics for forestry and wildlife data analyses. Dr. Reich, here with me today, conducted one of the reviews; the others were conducted by Dr. Edwin Green of Rutgers University and Dr. Steven Sheriff with the Missouri Department of Conservation. All three agreed that the 1990 status review failed to provide proof that the spotted owl is a species dependent upon old-growth forests. Additionally, all three pointed out numerous problems with the 1990 status review's analysis of habitat use by the spotted owl.

All three further noted that the studies on home ranges were not adequate, and that there were numerous important sources of errors and limitations in using radiotelemetry to determine habitat use. These limitations, in turn, led to major problems of interpretation of home range and habitat analysis studies. All three also clearly pointed out that the data provided in the 1990 status review do not support a complete ban on harvesting in spotted owl habitat, but indicate evidence to the contrary, suggestions that the continued survival of owls is not incompatible with some form of silviculture.

Second, I will summarize and submit new research data on spotted owls, their habitat, and their management that corroborates these statistical reports. This new research shows that, first, spotted owls are more numerous than previously expected; second, that they occur and successfully breed in a much wider array of habitat types than previously assumed.

Like the statistical reviews just discussed, these new studies show that many of the baseline assumptions and conclusions in the 1990 Fish and Wildlife Service status review and the ISC conservation strategy were inaccurate. Current estimates based upon 1989, 1990, and some 1991 research of only those spotted owls that affect private lands include over 500 pairs in California, over 400 pairs in Oregon, and over 300 pairs in Washington.

I emphasize these are on private lands—lands that Mr. Evans suggested earlier have been stripped and mutilated beyond the recognition of their nearest kin. The total is over half of the 2,169 pairs that the Interagency Scientific Committee said is necessary for recovery, even though that same committee said that the vast

majority of remaining spotted owl habitat occurs on Federal lands. So even though somewhere in the neighborhood of 90 percent of the habitat is on Federal lands, we found half of the needed number of owls pairs for recovery on private lands based upon the last 2 years' survey data, none of which was included in any of the Government documents that have been decision documents to date.

This information supports the following conclusions reflected in the structure of titles I and III of H.R. 2463. With regard to the owl, the question is not whether we have all of the information necessary to develop a long-term program for the conservation of the owl. We clearly do not have this information. It is still coming in. It is being collected today by people in Oregon, Washington, and northern California.

The recovery team will have to use as much of the rapidly-increasing information base as possible in developing the best program for the recovery of the species—a program that might change in response to new data. In title I of H.R. 2463, Congress would defer to the existing Endangered Species Act recovery process as the best way to develop a long-term program to assure the needs of the northern spotted owl are met. The only task then squarely before this Congress is to develop a valid interim program that does not jeopardize the northern spotted owl while the recovery plan is being completed, and this is the issue addressed in title III of H.R. 2463.

Section 305 would provide interim protection for those areas that are clearly the most desirable spotted owl habitat. Additionally, section 306 enhances the normal Endangered Species Act consultation process between the Fish and Wildlife Service, the BLM, and the Forest Service.

Now, with respect to the old-growth issue, title I of H.R. 2463 establishes a process through which old growth can be integrated into the multiple use values governing management of our public lands. The title incorporates the management of old-growth ecosystems into the land management planning process established by Congress in the National Forest Management Act of 1976 and the Federal Land and Policy Management Act of 1976.

In summary, H.R. 2463 is a proposal that reflects the newest data available on both the needs of the northern spotted owl and the opportunities to protect and manage old-growth forest ecosystems in the Pacific Northwest. In many respects H.R. 2463 is a biologically driven proposal providing the Forest Service, the BLM, and the Fish and Wildlife Service with only that guidance necessary to harmonize the conflicting requirements of existing statutes described at considerable length by yesterday's panels.

That concludes my summary. If you'll bear with me for just a second, I'd like to respond to one point made today, because one point made repeatedly in the first panel and in succeeding discussion was that beyond the Pacific Northwest there is no need to get into the broader national forest management issues, and those elements of H.R. 2463 that do that are slap-dash, hit-and-miss, put together at the last minute.

Mr. Chairman, this is your hearing record of all the hearings on National Forest Management Act issues that you have heard since 1987. A good part of your and my adult lives are quoted in this doc-

ument. If you look carefully at H.R. 2463 you will find that most of the provisions suggested therein are responsive to testimony heard at one or another of these hearings—particularly the testimony heard at last year's hearings on H.R. 5094 in respect to changes that were made to make H.R. 2463 a more sensitive proposal.

You have been very patient with me over the course of these many hearings, but our view is that you cannot fix the Pacific Northwest issue without fixing the forest planning process. The two are intertwined.

I look forward, when our panel is complete, to all of your questions, including those from Mr. Jontz about some illusory provisions in H.R. 2463 that I don't think are in there.

Thank you very much.

[The prepared statement of Mr. Rey appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you very much, Mr. Rey.

We will now have Mr. Geisinger.

STATEMENT OF JAMES GEISINGER, PRESIDENT, NORTHWEST FORESTRY ASSOCIATION, ACCOMPANIED BY STEVEN QUARLES, COUNSEL, CROWELL & MORING

Mr. GEISINGER. Thank you, Mr. Chairman.

My name is Jim Geisinger. I'm president of the Northwest Forestry Association of Portland, Oregon. Our association represents 75 manufacturers of lumber and plywood throughout the Pacific Northwest in the States of Washington and Oregon. All of our members depend to a significant degree on Federal forest lands for their raw material supply.

I must say that after sitting through the hearing all day yesterday and much of today there are really a lot of things I'd like to talk about besides title II of H.R. 2463, but since I promised Mr. Rey that that's what I'd talk about, and that title seems to have generated some degree of controversy, I'll try to stick to the program, and hopefully my editorial comments can be reserved for the question-and-answer period.

Just quickly, title II of H.R. 2463 is intended to do principally three things:

It is to provide congressional guidance on plan implementation, amendments, and revisions to ensure that the long-term programs, revised plans, and the protection they accord to the old-growth reserve and the northern spotted owl and other old-growth-associated species are implemented effectively.

Second, they are to achieve stability and predictability in the management of other Forest Service and BLM lands.

Third, to avoid the environmental, social, and economic injuries which result from unstable and uncertain Federal land management.

You basically have two parts under this title. Part A is intended to address the amending, revision, and monitoring of forest plans. This is the part that we believe should be applied nationally in scope and, in spite of earlier testimony that you may have heard, there are very severe problems throughout the country with the

implementation of forest plans, including the State of Louisiana, which I'd be happy to get into if you wish.

We are going to try to accomplish these objectives by adding some requirements and direction to the U.S. Forest Service and BLM. One of the most important ones is to add economic stability as a criterion for the revision and redo of forest plans.

Community stability has never been a specific objective identified in the National Forest Management Act or FLPMA, and this gets right to the point of Congressman Smith's legislation, the Community Stability Act. We think that's a key component of any forest plan revision process.

We also think that when plans are revised they should strike a balance with other requirements. What we are getting at here is that we can't continue the downward spiral of one incremental impact to our timber base after another as new information or new issues arise. When we make these revisions, we must go back and reconsider decisions of the past to see if they are in the proper balance that was intended by the original plan.

Minimum management requirement protection should be afforded to timber supply. Under the National Forest Management Act, MMR's, which you have heard about today, exist for soil and water and fish and wildlife, and about everything you can think about except for a supply of timber. We would ask that, as these plans are revised, that timber supply be accorded the same legal consideration as those other resources.

We believe that some provision should be made for the phasing in and out of output changes as these plans are revised. A very important component is the monitoring and maintenance program to analyze when and if corrective actions are warranted as these plans are implemented on the ground.

Last—and probably most importantly—is a mechanism for citizen petitions for amendment or revision. This section would authorize any person to petition the Forest Service or BLM to amend or revise any plan or other document establishing MMR's on the basis of new information, laws, or regulations. We'd expect the agency to respond to this petition within 60 days. If the petitioner does not like the answer or the agency is nonresponsive, they would be free to sue the Government.

That brings me to part B, which I will go over briefly, which we think is essential to provide some direction to streamlining the administrative appeals process and judicial review of revised plans and subsequent implementing actions. This is a difficult issue—one that has caused some controversy as we have shopped this proposal around to various Members of Congress and other interest groups.

Fundamentally, the predictability and resource planning decisions sought by our industry and the communities that depend on us will be impossible without some streamlining of judicial review and administrative appeal procedures. We believe it is time for the environmental community to get beyond their denial of the need to expedite these processes and to step forward in good faith and work with us to try to come up with some fair and equitable changes that will make the process more fair and more efficient.

I'd like to start out with describing what this proposal does not do. It does not preclude interested parties from suing the U.S.

Forest Service or any other agency in regard to the management of these lands. I should point out that the Constitution does not accord an automatic right of access to the courts for equitable relief. Only Congress can provide that access. We aren't suggesting that the access be denied, but we are simply asking that some additional consideration be put into place that isn't there now.

One of the more controversial ones is the issue of standing. Under H.R. 2463 there would be limits for the basis of challenging timber sales and other actions which implement forest plans to whether those actions are consistent or inconsistent with the plan and other nondiscretionary statutory requirements.

Second, it would prohibit challenges of plan implementing actions on the basis of new information until a plan revision petition has been filed and decided. That was the last element I mentioned regarding part A. It cannot be fairly said that H.R. 2463 inhibits litigation or the ability of anyone to seek redress for alleged injuries in the court.

Specifically, we would ask that standing to bring an administrative appeal be available only to persons that have submitted written or oral comments during the preparation of the plan and amendment or revision or document that the agency prepares for actions on specific issues or issues for which administrative review is sought.

Section 213 of H.R. 2463 established that the principal standard of review for an implementing action is consistency with the plan it implements and the nondiscretionary provisions of laws other than NEPA.

Perhaps the most important elements of title II are the section 214 deadlines and procedures that we would impose upon the courts for dealing with judicial reviews of agency decisionmaking. I can go through the specifics of these later if you wish, but what we are asking for is for the courts to act in an expeditious manner to provide the certainty that we seek in our timber supply.

Last, the agencies would be given some guidance concerning NEPA documentation requirements. What we are referring to here is the addressing of a very significant problem that is occurring with forest plan implementation, particularly in region one where, in spite of having final forest plans in place and allegedly implemented, on-the-ground activities are being halted on a daily basis because the Forest Service has not been able to adequately tier their project-level EA's with the EIS that was prepared for the forest plan. H.R. 2463 would provide some guidance on how to do that.

That represents the summary, Mr. Chairman, of title II of H.R. 2463.

I would just take a moment to offer a couple of observations about what I have heard over the last couple of days.

Much of the testimony presented by the first panel yesterday, Mr. Chairman and Members of Congress, had to do with the need to help communities get through the transition that is going to be brought on by legislation being proposed before your committee.

While that is an important element of any legislation that you'd consider, I'd have to also remind you that it is largely unnecessary. This isn't an inevitable outcome of people losing their jobs and

losing their means of livelihood because of some evolutionary process that is occurring in the Pacific Northwest. This is not inevitable. It is going to happen because human beings decide to do this to other human beings.

When you take away 75 percent of the timber-growing land base that 10 years ago the people of the Pacific Northwest thought was going to be available for sustained yield timber management, you can't avoid catastrophic impacts.

I'd like to also say that if you don't take any action these catastrophic circumstances are not going to be inevitable. We practice sustained yield on the Federal forestlands of the Pacific Northwest, and when the unreserved portion of the old growth is harvested in the next 40 to 50 years, the timber we cut today will be 40 or 50 years old and ready to be harvested again. We can continue like this forever, but we can't if you take the raw material supply away from a raw material dependent industry.

Thank you very much.

[The prepared statement of Mr. Geisinger appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you, Mr. Geisinger.

Mr. Pawlicki.

STATEMENT OF MARK PAWLICKI, DIRECTOR, CORPORATE AND PUBLIC AFFAIRS, SEQUOIA FOREST INDUSTRIES

Mr. PAWLICKI. Thank you. Good afternoon.

My name is Mark Pawlicki. I'm employed by Sequoia Forest Industries, headquartered in Dinuba, California. Our company currently employs about 750 people in central California; in Joseph, Oregon; and in Townsend, Montana. We produce approximately 300 million board feet of lumber at our five plants in these States.

Our company is primarily dependent on the national forests for its raw material supply. We are somewhat fortunate in that none of our operations are located near forests where the northern spotted owl lives; however, we face substantial threats to our timber supply for other reasons, including appeals and litigation of timber sales and Forest Service management priorities which are resulting in reduced timber availability. Moreover, our operations are directly threatened by conservation measures for the California spotted owl and other subspecies of the bird.

There are elements of the legislation, that you are considering today which are very important to our company. Passage of such legislation, which permits the Forest Service to get about the business of running the national forests, is crucial to our company's survival.

In California, we produce about 200 million board feet of lumber each year. Of this, some 60 percent, or 120 million board feet, goes to secondary manufacturing facilities which produce windows, doors, millwork, and furniture stock. These companies employ thousands of people in their businesses.

We sell lumber as far away as Warroad, Minnesota, where, for example, Marvin Windows employs some 3,000 people in the manufacture of high-quality doors and windows.

Today I would like to begin by focusing on an idea that often accompanies preservationists' efforts to reduce national forest timber supplies; that is, the proposal to substitute secondary manufacturing for primary manufacturing of lumber.

First of all, I want to call your attention to the fact that a large and viable secondary wood manufacturing industry already exists in this country. The only cloud on the horizon for them is the growing pressure to limit timber harvesting on public and private lands.

The notion that secondary manufacturing can mitigate job losses is simply erroneous. Professor Paul Polzin at the University of Montana recently concluded in a study that secondary manufacturing will not solve the problems of most timber-dependent communities. Secondary manufacturing facilities are attracted to large cities and are not attracted to the source of raw materials, the small mill communities. Consequently, he concluded that areas with large populations may have opportunities not available to sparsely populated areas to diversify their wood products industry.

Second, promotion of secondary manufacturing would penalize the existing industry. Besides being uneconomical, proposals to subsidize the construction and secondary manufacturing facilities would be unfair. They would provide subsidies to some producers, while shifting the economic burden, including potential job losses, to others. Thus, existing firms would suffer from double jeopardy.

As Buzz Marvin, president of Marvin Wood Products, pointed out in his testimony before Congressman Vento's hearing earlier this year, "This attempt to mitigate job loss in logging and sawmilling would merely reshuffle the deck and end up shifting unemployment elsewhere, including Minnesota."

I can site yet another example to illustrate why encouraging secondary manufacturing as a substitute for primary processing in the West just simply doesn't make sense. Last year Brand S Corporation in Livingston, Montana, built a secondary manufacturing facility next to their sawmill. Today Brand S faces the possibility that they are going to have to close both their sawmill and their secondary manufacturing facility, entirely due to appeals and litigation of timber sales on the national forest where they operate.

I would like to touch briefly on a proposal in H.R. 1590 to mitigate the economic loss of timber-dependent communities; namely, the promotion of recreation and tourism.

At the regional level, recreation and tourism is a wash. Because consumers have limited discretionary time and money, increasing tourism and recreational facilities will shift recreational activities from one area to another. Consequently, who could say, for example, that more abundant camping activities on the national forest won't cut into some other county or State park, or that encouraging increased uses of new national forest sites won't displace existing ones?

Additionally, as a practical matter, recreational developments are not easy to initiate. Like forest harvesting, antidevelopment activists have perennially opposed viable four-seasonal recreational developments. In central California where I live, for example, several proposals for ski development, including a Disney project, have been actively opposed by preservation interests.

Yet another case study on the economic effect of new set-asides is provided by the expansion of the Redwoods National Park. The result of this action provides some clues as to the economic trauma that would be spawned by banning timber harvesting on the remaining old growth in the region. The promise of an extraordinary increase in visitation to the park simply did not materialize. In fact, less than 1 percent of the projected visitor use has actually been realized in Redwood National Park.

In summary, Mr. Chairman, none of the conventional economic development strategies described here will help timber-dependent communities cope with the unprecedented economic losses they would sustain if preservation of remaining old growth is the sequel to listing of the northern spotted owl. Subsidizing new manufacturing industries would merely reshuffle the existing deck without changing the game. Recreation and tourism is a wash, at best. Furthermore, viable resort complexes are likely to be challenged.

Like the stranded economy near the Redwood National Park, timber-dependent communities will likely suffer from chronic unemployment, despite massive efforts to mitigate job losses.

The economic assistance provisions suggested in H.R. 2463 rely upon tested programs, using existing delivery systems, to create rural jobs. The serious objections that many, including the administration, might raise are based on fiscal concern.

We believe that it makes sense to invest the limited money we do have on proven programs that will create real jobs. H.R. 2463 takes a step in that direction.

Thank you.

[The prepared statement of Mr. Pawlicki appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you very much.

The gentleman from Washington.

Mr. SMITH. Mark, you cited a number of specifics on new findings on the owl. Are there any legal options related to those under the Endangered Species Act?

Mr. REY. We'll be submitting those data to the Fish and Wildlife Service as we offer our comments both on the critical habitat proposal and on the forthcoming recovery plan. It is our hope that those data, particularly the data suggesting that a greater tolerance for the owl of different types of habitat, will be dispositive in a different kind of recovery plan than what we have seen so far.

I think the problem we have, however, is that it is going to take a good, long time for those processes to conclude, and Judge Dwyer has basically stopped the clock and suggested that no timber will be harvested in a broad part of the region until at least one or more of those processes is completed and finally adjudicated. I don't think we have that time. That's why we are presenting the data to you in the form of a corroboration for some of the approaches outlined in H.R. 2463.

Mr. SMITH. That was impressive and new for some of us who have been looking for this sort of information, particularly as it would affect the recovery plan team.

Mr. REY. The way the two pieces of information came together, frankly, was that as we began to do more and more survey work on private lands over the last two survey seasons, the results we are

getting seemed counter-intuitive compared to the hypothesis presented by both the ISC and the status review team. That's when we decided to do a more-detailed statistical evaluation with the hypothesis of both the ISC and the listing team. That's how both pieces of information came into play.

Mr. SMITH. Some of us have had a feeling all along that there was a lack of real understanding of some of the basics of the needs of the owl.

Mark, probably for both you and Jim—Jim, particularly, since he concentrated on section 2 other than his editorial comments, which I welcomed—talked about planning. Really, as I mentioned earlier today, I see a sound planning process as really being the key to the industry and labor proposal as we have it. Really you have spent a lot of time going back and analyzing what has gone wrong with the planning procedure and how we might use it then as a platform to provide some certainty for a decade at a time.

You commented some on the—I think it was Mr. Lloyd from Louisiana that mentioned don't gum up the process. I guess maybe being from the Northwest I have seen the planning process really not work very well. Could you expand on that? Is there a difference across the country based on the size of national forests or the importance of them economically to the area?

Mr. REY. Let me start with the example of the Kisatchie. That was one of the forests with the greatest amount of consensus attendant to the development of that forest plan. He is correct. Through his efforts, the forest plan had only minor appeals, and those appeals were resolved.

We have sponsored with the State and the Forest Service and environmental groups congressional field trips to show that the Kisatchie National Forest is one forest that made it through to the completion of a forest plan with a minimal amount—or at least comparatively less—conflict than you are experiencing in the Northwest. If you wanted to pick a forest that was an example for how it could work, the best example, it is the Kisatchie.

Now, the problem is that last year the Kisatchie sold 97 million feet of timber. The allowable sale quantity in the forest plan—which everybody agreed to, wasn't appealed, general consensus—was 145 million feet. It made about two-thirds of its ASQ. Some of the other outputs did better, some did worse. Principle reasons that it didn't make its ASQ were subsequent conflicts with interest groups—the ones that Mr. Lloyd couldn't keep out of Louisiana, and the ones he did keep out were some of his own colleagues. The Sierra Club Legal Defense Fund in other States came in and basically turned that plan on its ear.

The forest supervisor just issued a report saying he is going to have to do a revision of the plan in 5 years rather than 10. He doesn't know whether headquarters is going to allow him to do that. And he's going to proceed, in our view, arbitrarily in the interim, until he gets some direction from headquarters as to whether he can revise before the 10-year period is up.

The biggest problem in the Kisatchie, as well as the system, as a whole, is that there is no guidance about how to secure implementation of the plan.

Mr. SMITH. I recall the information you have shared with us about the volumes of information about the planning process, itself, but almost nothing said about implementation. You are saying that the problem in Louisiana has been the implementation of the plan.

Mr. REY. That's correct. This is a best case example in terms of the predictability that our members depend upon. They reached about the 66-percent level.

Mr. GEISINGER. Could I expand on that for region 6, Congressman?

Mr. SMITH. Sure.

Mr. GEISINGER. The problem we have had out in the Pacific Northwest is the Forest Service embarked on an effort several years ago to try to address the concerns of the environmental community through the forest planning process. Prior to that effort, we had a set of forest plans in place that would have allowed the Forest Service to sell up to 5.1 billion feet per year, year in and year out, with adequate funding. The fact is they never sold that much. It averaged something around 4.5 billion feet during the decade of the 1980's. I should say that those plans I referred to allocated about half of the national forest land base for timber production purposes and half for something else.

Through the planning process, the Forest Service gave away 1.6 billion board feet of our allowable sale quantity potential, gave away another half of the land base so that we are down somewhere between 20 and 25 percent of the land base that is available for timber production, and they didn't get a thing for it in terms of satisfying the environmental community. The spotted owl issue isn't resolved, the old-growth issue isn't resolved, riparian habitat issue isn't resolved, and the list goes on and on.

So what we see the Forest Service tending to do now is take those final forest plans and say, "Well, let's do something for old growth, let's do something for the owl, let's do something for all these other issues, without going back and revisiting any of those decisions that they had made in an attempt to address the very concerns of that special interest group.

So what we are asking for in H.R. 2463 is that, as the plans are revised to address these new concerns or to address new information, that we look at the bigger landscape in developing a new proposal rather than just continuing to take one bite after another out of our timber-growing land base. Hopefully, through that kind of a process, we will fare a little better than we would have otherwise, and hopefully we will also know with some certainty how much timber to expect.

Mr. SMITH. And maybe have some plans that will work.

Mr. GEISINGER. Hopefully.

Mr. SMITH. Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from Indiana.

Mr. JONTZ. Thank you, Mr. Chairman.

Mr. REY, the biostatistical evidence that you have cited to us is certainly of interest. Was any of this evidence or were any of the biostatisticians involved as witnesses in the Dwyer case?

Mr. REY. No. Their work was ongoing at the time that Judge Dwyer was in the middle of hearings and was not complete.

Mr. JONTZ. The date on this one particular work that you submitted to us—Steven Sheriff? Is that correct?

Mr. REY. Correct.

Mr. JONTZ. April 23. So it is relatively recent.

Mr. Sheriff is one of the individuals that you have cited in your testimony?

Mr. REY. Correct.

Mr. JONTZ. I am not a biostatistician, and so I'm not necessarily qualified to review his work, but I do want to read you this sentence. This is from Mr. Sheriff's report. "Let me first preface my comments by saying that I am not a spotted owl biologist, nor do I know a great deal about forest management in the Pacific Northwest."

Mr. REY. The expertise that these people brought to bear was in research design and statistical analysis. As I'm sure you know from reading Judge Dwyer's holdings, he relied on people who acknowledge that they were not spotted owl biologists, as well. In this particular case, these three individuals are the type of people that you go to as a researcher to find out whether you are doing an adequate job of statistical evaluation to support the hypotheses that you want to test. The techniques are broadly applicable across a variety of plant and animal species. None of them have to be spotted owl biologists in order to evaluate the statistical reliability of spotted owl research.

Mr. JONTZ. I can appreciate that. And the conclusion of Mr. Sheriff's work, if you would summarize that?

Mr. REY. The conclusion of all three gentlemen's work, in broad terms, is that there is no statistically significant basis for designating the suitable habitat of northern spotted owl based upon what we know at the present time.

Mr. JONTZ. I will read another statement from Mr. Sheriff's work. "I believe the spotted owls of the Pacific Northwest are on a population decline, and the cause is human impact upon the forest habitats in which the owl lives." I just wanted to put that in the record.

Mr. REY. That's true. That is one of his conclusions. The difficulty, however, is that we haven't figured out how to rectify that. What all three statisticians have suggested is that the data analyses done to date don't provide us with an answer.

Mr. JONTZ. And, of course, what the judge says is that he wants a plan before he allows continued cutting in the forest that may have serious impact.

Mr. REY. Judge Dwyer has asked the agencies to invent science on his timetable. The results that they produce will not be acceptable to many people, and we will have the continued confusion that we have had so far that you have talked about at great length.

Mr. JONTZ. Judge Dwyer's findings were that the agency stop work on a plan at intervention from the Secretary level. So yesterday the Chief came to tell us he thought he could get the job done. Let us hope that that's true.

Mr. REY. You misread Judge Dwyer's opinion. He said that the agencies erred procedurally by stopping work on public comment period on the plan and not implementing it. If they reinstitute the public comment period on the plan, as Judge Dwyer said they

should, we will submit this evidence to them, because the evidence suggests that the plan is deficient. It doesn't improve the science for them to implement the plan, it merely improved the procedural shortcomings Judge Dwyer noted as far as NFMA compliance is concerned.

Mr. JONTZ. Well, the——

Mr. VOLKMER. If the gentleman will let me interject, you're talking about the original?

Mr. REY. I'm talking about the original Interagency Scientific Committee report.

Mr. VOLKMER. Right.

Mr. REY. That was the plan that they would have implemented.

Mr. JONTZ. Well, let me read——

Mr. VOLKMER. Did they not withdraw that plan then?

Mr. REY. They have withdrawn that plan. That's correct.

Mr. VOLKMER. That's correct.

Mr. REY. And at this point it is going to be a horse race to see whether they can provide a process to meet Judge Dwyer's decision to implement that plan either before or after the recovery team comes up with a different plan. So we will, as the legal panel told you yesterday, have conflicting statutory requirements in play at virtually any given time in this process.

Mr. JONTZ. The finding that we read into the hearing record yesterday—and I will read it again—George Leonard, Associate Chief of the Forest Service, testified that the agency experts began in early 1990 the work needed to have a revised plan in place by September 30 of that year, as Congress mandated in section 318. But the Secretaries of Agriculture and Interior decided to drop the effort.

Mr. REY. That may be true, but all that they were doing at that time was going through the procedural process of providing an opportunity for public comment on the Interagency Scientific Committee plan. What I'm telling you is that the data that we just presented to you suggests that there are substantial statistical problems with the hypotheses offered by the Interagency Scientific Committee, so nothing that the agency is going to do in response to Judge Dwyer is going to correct those problems.

Mr. JONTZ. That's your opinion. Unfortunately, we do not have the benefit of the process having moved forward, and there is no way we will know until that happens. So if this delay is doing anyone any good, it is hard for me to figure out who the beneficiaries of these delays are.

Mr. REY. I think we can agree there are probably no beneficiaries to this delay.

Mr. JONTZ. I think my time has expired. I'll come back to you on the second round.

Mr. VOLKMER. The gentleman from Oregon.

Mr. SMITH. Thank you, Mr. Chairman.

I might, as a side light, add that Jack Ward Thomas will tell you he is not a spotted owl biologist at all. He is chair of a group of people who pulled together what has been the bible. He actually spends most of his time in the elk area in northeastern Oregon.

Mr. Rey, with this added information about the owl, have you exhausted all the areas where owls may be located or could be located?

Mr. REY. No. Survey data are still incomplete, and I believe we will find more owls as additional survey work continues. What we hope is that as we find more owls we will be able to develop an alternative hypothesis or alternative hypotheses for what a reasonable conservation strategy for the owl would be. These data are not the dispositive except that they suggest a lot more flexibility than our earlier hypotheses would have given you—

Mr. SMITH. I'm fascinated by the introduction of information that we found more owls, and then with the conclusion that owls are declining in population.

Mr. REY. The conclusion that owls are declining in population is a model-driven conclusion. It is not based on actual data. It may be right or it may be wrong. The fact that we are seeing more owls every time we look is suggestive of evidence that the model may have flaws.

Mr. SMITH. Maybe an effort to list would give us time to find more owls.

Mr. REY. I tend to think that the best approach is to use the data as we develop it to develop a recovery plan that has a lot more flexibility than anything we have seen to date.

Mr. SMITH. How much is it going to take before we cover the area where owls might be located so we have some kind of circumference of the issue?

Mr. REY. I don't know how long it will take. All I can say is that we have research data on owls that go back two decades or more, and we still surveyed only a relative fraction of the range.

Mr. SMITH. Jack Ward Thomas yesterday indicated on a direct question of the chairman that he thought that you couldn't have the same matrix of attitude or management with respect to old growth and the owl with region 6, with northern California, and eastern Oregon. Is the bill that I cosponsored, H.R. 2463, flexible enough to take in the differences that occur obviously in not only owls, but old growth between those three areas?

Mr. REY. Yes. One of its principal advantages in our view is that by depending upon the recovery process for a long-term solution, and, as is provided under existing Endangered Species Act case law, requiring unmanaged agencies to implement the recovery plan through their forest plan revisions, you can properly reflect differences within the owls' range and different parts of the range—eastern Oregon, western Oregon, northern California.

Mr. SMITH. We have looked at this appeal thing for a long time and tried to wrestle with it. The Forest Service has done some work trying to make the appeal process more efficient and reduce the time, recognizing that our opponents have always used the appeals process to delay, which was in their best interest.

I'm wondering what you might think about just eliminating the administrative appeals process totally, with the recognition that most of these appeals work up through the system. I think there are four in the Forest Service. We estimate that might eliminate 6 months of time without changing the appeal process.

Mr. REY. Our preference would be to try to rationalize the appeals process so that it works in a fashion where downstream appeals over implementing actions ought narrow the scope of decision.

Mr. SMITH. You're talking about standing?

Mr. REY. Standard of review.

Mr. SMITH. Standing?

Mr. REY. No. Standard of review. What we would suggest is that one way to make the appeals process and judicial processes more efficient is to have the broader disputes occur at the forest plan level, and then when you are disputing subsequent plan implementation activities make the standard of review the narrower standard of whether or not the action in question is inconsistent with the plan or some other nondiscretionary, statutory requirement.

At that point you are using the plan and the appeals process in tandem so that you are narrowing the range of issues, the type of dispute, over time and you are not rearguing the same issue over and over again which, of course, is a principle source of delay.

Mr. SMITH. It is always de novo.

Mr. REY. Right.

Mr. SMITH. I think I'm correct. In Oregon I believe that there is a \$15,000 bond offered, and you don't have standing in a State appeal on forests unless you were involved in the primary planning program or you offered something. Do you remember?

Mr. REY. I believe that's correct.

Mr. SMITH. I think that's true. I am sure that Congress would absolutely have a conniption fit if you did that, but the point is there are States that have established standing that have not deprived people of the right to appeal but do filter out this frivolous kind of business that we have all worked our way through.

I thank you, Mr. Chairman.

Mr. VOLKMER. Thank you very much.

Mark, I agree there has been quite a bit of testimony in regard to the question of implementation of plans and the problems with implementation of plans since I have been chairman and what to do about it. I want to commend you all for an attempt, at least, to do something to remove us from the status quo where, as you know and I know, our hearings have been—every time we have had a hearing it has been that the appeals process, especially on individual sales, now that most of the plans have been completed, has held up a lot of timber sales and timber production in many of our national forests. There is no question about that.

I can understand how some people on the other side who utilize that to stop—we've got people out there who want no trees to be cut—they don't want to change the status quo because it is setting up doing what they want to do; isn't that right?

Mr. REY. I think that's basically right. We have put forward a proposal, as the preceding panel, our colleagues in the labor union movement have indicated, that is our best attempt at trying to deal with those issues. I listened hard to the environmental panel to hear a similar proposal or an alternative proposal. What I heard was some lip service to the word "certainty."

But, in addition to agreeing with your view that they have not yet heretofore produced an economic assistance package proposal,

we also haven't seen anything out of them as to what they mean by certainty.

Mr. VOLKMER. That's correct.

Mr. REY. I think their definition of certainty probably isn't one that I'd like. I think they are acting it out right now in the Pacific Northwest. There is a form of certainty that is occurring for some people out there.

Mr. VOLKMER. Earlier I mentioned our colleague, Bill Richardson, regarding the spotted owl agreements he has reached in New Mexico but, unlike the spotted owl, I understand the Mexican owl is not yet listed as threatened or endangered. In the event that it is, would the listing affect that agreement, do you think?

Mr. REY. First of all, there is a petition before the Fish and Wildlife Service for listing.

Mr. VOLKMER. But it has not been—

Mr. REY. It has not been decided upon. If the Fish and Wildlife Service acts affirmatively and proposes listing for the Mexican spotted owl, unfortunately Mr. Richardson's agreement will be moot because the agencies—that is, the Forest Service—will have to immediately suspend sales to take them through conferencing under the Endangered Species Act.

Under our proposal, particularly section 204 of title II, what we would ask the agency to do at that point is go through a plan amendment process and try to rebalance the resource allocations associated with that and not simply allow timber sales to be suspended and the plan to unravel—and, in this case, Mr. Richardson's compromise to unravel.

Mr. VOLKMER. Right. Now, do you have any idea—the agreement that Mr. Richardson has been able to reach in New Mexico, is that going to have any affect on the petition to have it listed?

Mr. REY. I believe that the comment period on that—I'm certain the comment period on that petition has closed. I believe that the agreement provides some protection for stands occupied by the Mexican spotted owl, although Mr. Pawlicki is more familiar with the agreement than I am.

But, notwithstanding those protections, if the Mexican owl is listed, conferencing will trigger—

Mr. VOLKMER. The Fish and Wildlife Service will get in the act.

Mr. REY. Right.

Mr. VOLKMER. Mr. Pawlicki, do you operate in the Sierra Nevada?

Mr. PAWLICKI. Yes; we do, sir.

Mr. VOLKMER. We have had proposals made here—and I asked yesterday evening for the representative that spoke here from the State of California to give us an official viewpoint of the Governor or Mr. Wheeler with regard to the proposal made to have the Sierra Nevada also incorporated into ancient forests. What would that do to your operation?

Mr. PAWLICKI. There are already significant portions of the sierra region set aside for one reason or another. For example, where we operate the Sierra and Sequoia National Forest, the Sierra has about 25 percent of its land base available for forestry and other uses, and the Sequoia has 21 percent available for forest-

y and other multiple uses. We already have a significant set aside here.

Certainly there is no more room for more set-asides, which would hurt us.

Currently we are plagued by appeals and litigation in that region, and one company has already taken one shift off a sawmill and the industry is very near to closing down one or two other mills.

Mr. VOLKMER. Is it mostly ponderosa pine?

Mr. PAWLICKI. We have a mixture of ponderosa pine, sugar pine, and the true fir—the white fir type. We do not have Douglas-fir in that region.

Mr. VOLKMER. Right.

Mr. PAWLICKI. I might add that the Sequoia National Forest provides a classic example of what is wrong with the planning system. We had a forest plan a few years ago on the Sequoia that was appealed by a large array of interest groups and individuals. In an effort to get that resolved, the Forest Service put together a group where you would have all of the interest groups get together to try to resolve their conflicts through mediation. The goal was to have a settlement agreement on all of these appeals.

Mr. VOLKMER. Right.

Mr. PAWLICKI. Some 22 groups signed that, including the timber industry, the Sierra Club, Wilderness Society, Save the Redwoods League, and other user groups. We all signed that document. It reserves the groves of sequoias. It provides a lot of mitigation measures. It provides a much-reduced timber sale program to about 5 million board feet a year.

What has happened since then is that one of the participants in the group broke off at the 11th hour and would not sign it—a local reservation interest—and since the signing of that agreement they have brought suit on almost every timber sale on the Sequoia National Forest. It has absolutely disrupted the operation of the forest. We are to the point where, as I said, one mill has cut off a shift, and we may have to close a couple of mills if that is not resolved.

So even though we all operated in good faith to get a resolution of the forest plan issues, we still find ourselves in court.

This bill that we are proposing would significantly narrow those opportunities and would make sure that the people who are bringing litigation and appeals would have to be a player in the original plan or timber sale, and they couldn't just sit back with their arms folded, wait until the last minute, and file a lawsuit on a timber sale.

Those are the kind of things, when we are sitting around trying to decide what to do with our mills that cause great uncertainty. We currently have 3 months of timber under contract for our three mills in California, and we have about 600 people there sitting around wondering whether we are going to have timber to run through the mills.

Mr. VOLKMER. In the areas in the Sierras undoubtedly there have been areas in the past that have been cut and that are now deforested, are there not?

Mr. PAWLICKI. Yes, sir.

Mr. VOLKMER. All the Sierra Nevadas is not ancient forest, is it?

Mr. PAWLICKI. No. We have mixed stands of various age groups. We have had a long history of fire in that region. We have diversified ecosystems. We practice primarily selective harvesting of timber. It is not typical of what we are dealing with in the Oregon and Washington type of situations here, but—

Mr. VOLKMER. And are there any State lands in that area?

Mr. PAWLICKI. A very small portion.

Mr. VOLKMER. What about private lands?

Mr. PAWLICKI. Also very small portion—particularly nonindustrial private. We buy about 95 percent of our raw material from the U.S. Forest Service.

Mr. VOLKMER. So there isn't anything else available if that was—

Mr. PAWLICKI. No, sir. Not enough to run a mill.

Mr. VOLKMER. Mr. Geisinger, you earlier said you wanted to make some editorial comment regarding some of the other things. I'll give you the opportunity to do so, but please don't take over half an hour.

Mr. GEISINGER. I assure you I won't do that. I think you have been very generous with the amount of time you have allowed all the witnesses.

I just couldn't help but think yesterday sitting here about what is being done with this thing called science and how many people are hiding behind so-called "science."

I sat here and listened to testimony that Judge Dwyer relied on the best experts in the business to decide that the spotted owl was on the threshold of extinction. The witness that made that statement in court has spent his life studying the red-winged blackbird. He admitted under oath that he had never studied spotted owls. He admitted under oath that he was not a spotted owl expert.

The other best expert in the business that testified for the plaintiffs was there with the credentials that he had served on the endangered desert tortoise recovery team. He also testified under oath that he didn't consider himself to be a spotted owl expert.

And yet Judge Dwyer now, on the best authority available, has decided that the Jack Thomas committee report—which did have arguably those who had done the most research on spotted owls—and these two individuals, the red-winged blackbird expert and the desert tortoise expert said it wasn't any good, and so the judge believed them. And now our industry is on the verge of crumbling because of that kind of decision.

Then I turn to this issue of law where the agencies are getting beat up because they didn't comply with the law. Maybe it was systematic. I am confident it wasn't deliberate.

I think during the exchange between your committee and the panel of lawyers and agency people yesterday there was a very good record built that over the last 20 years there has been an interwoven matrix of laws passed that, as individual laws, may have made sense at the time but, as Congressman Morrison pointed out, have formed this web that almost makes it impossible for agencies to comply.

What frustrates us out in the Northwest is that, while the agencies are accused of not complying with the law, the administration

is accused of interfering with the agencies' ability to comply with the law, those people in the Forest Service and the BLM and the administration still get their paychecks twice a month, but the people that are working in the mills are being laid off. To those folks out there, that just doesn't seem to be very fair.

I think the time has come to admit that the system isn't working. The system is not harmonious, as Mr. Sher testified yesterday. It is utter chaos. I think in some questioning that Mr. Kopetski offered—and I wish he were here. I'm from his district—he commented that Tuesday he was at the Estacada Grade School and talked to a fifth grade class about politics. That kind of brought things pretty close to home for me, because if he had walked down the aisle to Ms. Bassett's third grade class he would have hopefully found my daughter at her desk diligently doing her homework and attentively listening to her teacher.

I moved to Estacada a year ago because it offers a quality of life that I think can only be found in the State of Oregon. It sits in the shadow of Mount Hood.

The Mount Hood National Forest I would call a bipartisan forest. Mr. Smith owns half of it and Mr. Kopetski owns the other half. During the decade of the 1980's, that forest consistently sold over 300 million feet per year, year in and year out, under a forest plan where about 45 percent of the land base was available for timber production. Under the new forest plan, 18 percent of that forest is going to be available for timber production.

Before I came out here I called the forest timber staff and I said, "What was your standing inventory of saw log timber in 1970?" He told me that it was about 53.5 million cubic feet of timber. Today, after 20 years of harvesting, there is the same amount of standing inventory as there was 20 years ago.

What people don't understand back here is when we cut down those big ones, little ones grow up behind them. To listen to Mr. Evans and his ilk, you would think that once they are cut down we walk away from bare land and nothing ever happens. But we do practice sustained yield.

So if you can tell us how much land we are going to have available, we can decide and figure out how much timber is going to be available year in and year out. But if you come back every 2 years like this institution seems to do and change your mind about how you want those lands managed, then that's what results in the chaos that we have.

I laid awake in bed last night thinking about this, and I just couldn't help but think how tragic it is that we have the best, most productive timber-growing lands in the United States, the most regulated forest lands in the entire country, and we're going to give away 80 percent of it in the case of Mount Hood to other uses that preclude what it does best, which is producing timber and sustaining jobs.

Under this new forest plan I referred to, the 384 million feet would go down to about 190 million feet. If you overlay the Jack Thomas report on that, it would go down to about 90 million feet. If you can't harvest in critical habitat, it would go down to about 50 million feet.

You can talk about automation all you want, and you can talk about log exports all you want, and arguably some of those issues do have an effect on jobs, but jobs come and jobs go under those scenarios. Jobs come with the market, they go with the market. But when you go from 380 million feet a year down to 50 million feet a year in 2 years, that causes catastrophe.

I don't care how much Ed Whitelaw from the University of Oregon, who was a witness at Judge Dwyer's hearing, or Jeff Olsen from the Wilderness Society wants to tell you, when that happens there are real, live economic impacts. Those people in Estacada aren't going to gravitate to I-5 and go to work in Salem or go to work in Portland. They like living in Estacada. So you disrupt their lives to that magnitude, and there is going to be an absolute disaster in the Pacific Northwest.

I think it is clear, based on the testimony you have heard, that you are the only institution that can fix that chaos.

Thank you.

Mr. VOLKMER. Thank you very much. My observation will be that some of these environmentalists would say that those trees that are growing after the ones that were cut are not the right kind of trees. That's a tree farm. We don't want a tree farm. That's what they're going to tell you. You don't have the bugs out there, you don't have the animals out there, you don't have all the species out there, you don't have the canopies out there, you don't have the same beauty out there; therefore, that is not a valid way to manage the forest.

Mr. GEISINGER. Mr. Chairman, I can tell you that under the most intensively managed national forest lands in region 6 the typical rotation is somewhere between 80 and 100 years. In riparian zones it is typical to be a 200- or 250-year rotation. In visual management zones it can be a 250-year rotation. But even on those most intensively managed lands, if you plant 300 Douglas-fir seedlings per acre after harvesting using a clear cut, you can't help but get biological diversity over 100 years. Other species come in naturally. It has been happening for centuries out in the Pacific Northwest.

And I'd also dispute the testimony that we have cut 95 percent of the ancient forest. The 50 million acres of so-called "ancient forest" that Mr. Evans referred to was never all ancient forests. Those forests have burned down, blown down, and been eaten up by insects over and over and over during the centuries, and it was never one ocean of ancient forest and it never will be.

Mr. VOLKMER. Any further questions?

Mr. JONTZ. Yes, Mr. Chairman.

Mr. VOLKMER. The gentleman from Indiana.

Mr. JONTZ. Thank you.

To further some of the discussion here, I think the scientists that came before us yesterday made it very clear that you are not going to get in 100 years what you cut down. I guess the distinction between what you have cut and what you replace it with is one that is very critical.

I guess my concern, in part, about what you said about the Mount Hood, Mr. Geisinger, when I hear those numbers I wonder what the bases were on which the Forest Service reduced the ASQ from 380 to 190? Why?

Mr. GEISINGER. They called the Mount Hood an urban forest because it is one within a certain number of miles of a metropolitan area with over 1 million people. They decided that other resource values were more important than the ones that were being addressed under the previous plan.

There are large roadless areas left on the Mount Hood National Forest that were left mostly intact under this new forest plan. The previous plan assumed that they were going to be available for timber production purposes.

We had a wilderness bill in 1978 and one in 1984 that created over 300,000 acres of wilderness on that forest. There has been a succession of Federal actions that have resulted in a situation where there just isn't much left.

Mr. JONTZ. Let me ask you this: when the wilderness bill was passed was the level of appropriations for timber sales reduced?

Mr. GEISINGER. Absolutely. The plan was amended to reflect those additions to the wilderness system, which I would add are low elevation old-growth areas like the Salmon-Huckleberry Area and the Bull-of-the-Woods Area. They are old-growth Douglas-fir forests, and some of the staffers in this room have been out there to see it.

Mr. REY. If I could interject just to elaborate on that point, throughout the region the forest planning decisions had similar reductions associated with the development of final NFMA plans. If you total those up, as we have, what you find is somewhere in the neighborhood of 3.3 million acres regionwide of suitable timberland that was taken out of production for the purposes of balancing resource values associated with the forest plan.

Mr. JONTZ. And at that point was the level of sales reduced?

Mr. REY. The level of sales has been reduced over the last several years.

Mr. JONTZ. I don't know if that is true. I think the level of sales has stayed relatively—certainly higher in the late 1980's than it was in the early 1980's.

Mr. REY. Not against—you're talking about the level of harvest of already-sold timber. The level of new sales—not resales under the buy-out—against which the allowable sale quantity is measured, has been decreasing the last 6 years. That, by the way, was a point made in the April 13, 1988, hearing when we established that we were actually underharvesting the national forests on the basis of the new NFMA, as well as the old unit plans. There is a lot of documentation to that effect in this. I'm sorry the Chief forgot to mention it in the hearing yesterday.

Mr. JONTZ. Well, it just seems to me that to continue selling at 380 million board feet throughout the 1980's is the cause of the problem.

Mr. REY. No, it's not.

Mr. JONTZ. I don't think that is true. I think it is the cause of the problem, and when those lands were taken out for wilderness, etc., then the sales quantities should have gone down.

Mr. REY. The sales quantity did go down after the wilderness—

Mr. JONTZ. Where was it before?

Mr. GEISINGER. At one time it was over 400 million feet, and under the amended plan it went down to 384, and the sales typically—

Mr. JONTZ. From 400 to 384; is that what you are stating for the record?

Mr. GEISINGER. It was something over 400 million feet. I will provide you the exact figures for the record if you would like.

Mr. JONTZ. Yes.

[The information follows:]

Total biological potential yield is 500 million board feet per year under the 1976 Timber Resource Plan and EIS. After adjustments for visual management, wildlife habitat, wilderness, recreation and other discretionary multiple use the annual sale volume was set at 364 mm. Due to less than full funding, the Mount Hood actually sold less than this volume during the time the plan was in effect.

Mr. GEISINGER. The Forest Service has been managing the forests under existing plans that have yield tables, that have land suitability analyses, that have economic analyses for growing timber, and they have not been selling more timber than what is prescribed in those plans. In fact, they have actually been selling less. If anything, there has been a margin of safety under those plans up until the time that the new plans were completed in 1990.

Mr. JONTZ. Well, had the plan taken effect when it should have, we wouldn't have been cutting at that high a level.

Mr. REY. That's incorrect.

Mr. GEISINGER. That is incorrect.

Mr. REY. That is the point of the hearing of April 13, 1988. In that hearing record we demonstrated with statistics provided by the Forest Service that the agency was selling less timber than the new NFMA plans would have provided over the course of the previous decade. By the way, the long-term sustained yield of that particular forest is 487, so we are nowhere even close to the sustained yield of the Mount Hood National Forest.

Mr. JONTZ. A 487 sustained yield is just beyond my belief. As you know very well, we've got a lot of assumptions cranked into this, and, unfortunately, many of them are quite unrealistic, and we are paying a very heavy price for that.

Mr. REY. No. We're paying the price now because we want to make different kinds of decisions associated with different land-use allocations, not because we made bad decisions a decade ago or 5 years ago or 2 years ago. The 487 long-term sustained yield was never challenged in that plan, so if it was wrong it was at least right enough so that nobody disputed that.

Mr. JONTZ. But that 487 ignores the set-asides?

Mr. REY. No. That 487 is the long-term sustained yield of that part of the land base which is suitable timber land.

Mr. JONTZ. Ignoring the set-asides.

Mr. GEISINGER. Mr. Jontz, the point here is—sometimes I can't believe how blindly you accept the arguments of the preservation community without asking the proper questions. My only point in raising the Mount Hood National Forest is you have a forest where half of the land base was being managed for timber production for a period of time that our industry and the communities that surround that forest grew to depend on. We are going to go from 50 percent being available to 18 percent that is going to be available

for general forest. That's a dramatic change that doesn't address your legislation, that doesn't address the spotted owl as a threatened species. It can only get worse. I would submit that's not a balanced approach.

Mr. JONTZ. Well, it seems to me that the plan that was prepared reflects public input, it reflects a full range of purposes for which our forests exist. Regrettably, implementation of that plan was delayed for some number of years.

Mr. GEISINGER. That's the sad part about it. It didn't reflect the public input the Forest Service received at all. They bowed to political pressure, and they bowed to threats from the environmental community to sue them.

Mr. JONTZ. Well, if they weren't following the law then obviously they would be concerned about some suit. I don't know why, if they were following the law, they would be concerned about any suit at all.

Mr. Chairman, if that comment is on the record that friendly judges are the cause of the problem, the judges' job is to uphold the law. I presume that's what they are doing. I don't know Judge Dwyer. I have never met him. I didn't sit through the 8 days of evidentiary hearing, swearing in witnesses under oath, etc., and I'm not sure that I would have reached the same conclusion that he did. But to conclude that all of this problem is because we have judges who are friendly to the environmentalists to me misses the point that we have judges whose constitutional obligation is to uphold the law. My presumption is that that's the base upon which they made their decisions.

We do need to get into some of the specifics, if we might, on the bill H.R. 2463. I just want to get a couple of things in the record here.

Mr. Geisinger, you make a point in your statement that access to the courts is not prohibited by this bill. In section 211, with regard to the judicial review of plans, you make it clear, of course, that the individual would have to exhaust their administrative remedies before going to court. That's the standard situation. I'm not sure if this particular language statutorily makes any changes from existing policy or not.

Then, under section 210, you say that standing to bring an administrative appeal should be available only to persons who submitted written or oral comment during the preparation of the plan, amendment, revision, document, or action on the issue/issues on which the administrative review is sought. Is that a requirement under the present law?

Mr. GEISINGER. I believe there is case law that supports that as a requirement.

Mr. JONTZ. To bring administrative appeal? Is that a requirement of existing law? To bring administrative appeal you have to have submitted written or oral comment during the preparation of the plan?

Mr. REY. No.

Mr. JONTZ. It is not?

Mr. REY. The Forest Service does not hold that requirement in their current appeals regulations. The Forest Service does hold the

requirement which has been reflected in existing case law that unless you go through the appeals process——

Mr. JONTZ. Agreed.

Mr. REY. You can't go into——

Mr. JONTZ. I appreciate that. But what you have said here, of course, is that you have to exhaust administrative remedies before going to court.

Mr. REY. Correct.

Mr. JONTZ. And then you have said that you cannot bring an administrative appeal—in other words, you cannot exhaust your administrative remedies—unless you have submitted written or oral comment during the preparation of the plan, amendment, revision, etc.

Mr. REY. You have to go back one more section, to section 209, where we state that if you have a grievance to bring before the agency that is based upon new information, rather than going through the appeals process you petition for plan amendment or revision. You move your grievance back through the planning process.

Mr. JONTZ. That's not what this says. This says that if you have not submitted comments from the beginning, then you don't have any means of bringing administrative appeal.

Mr. REY. You go to the petition for plan revision or amendment instead, and then under section 209 the agency hears your petition. If you, in fact, have new information, perhaps that new information is only that you weren't there as a participant in the planning process. The agency then entertains your petition for a plan amendment or it doesn't.

Mr. JONTZ. And your argument is that streamlines the process?

Mr. REY. Yes.

Mr. JONTZ. By requiring plan amendments?

Mr. REY. Substantially, because it moves the process back into the planning process and, instead of having appeals and judicial review occurring de novo every time somebody comes in 4 or 5 years after a plan is developed with a set of issues that may have been or should have been resolved in the planning process. I think it will move people into a better and more intimate dialog with the Forest Service at the local level rather than forcing them through the formality of the appeals process and even greater formality of the cost of judicial review, because then when you go to the appeals process or the court what you are appealing or litigating is the question of whether the agency treated you fairly in your petition for a plan amendment or revision.

The court has a circumscribed record rather than requiring it to go through a de novo review. It is the same with the appeals process.

Mr. GEISINGER. Mr. Chairman, we have legal counsel at my shoulder that is very well versed in the preparation of this language. If we may ask him to address some of these questions it may be helpful for the subcommittee.

Mr. JONTZ. Let me proceed through these provisions. If he would like to be introduced and to assist, that would be no problem with me.

Mr. GEISINGER. This is Steven Quarles with the law firm of Crowell and Moring.

Mr. JONTZ. Let me ask about this particular provision, section 304. Subject only to the provisions of this title and notwithstanding any provision of law or order of a court to the contrary, these various sales shall be offered. Would that mean that all of the provisions of the National Environmental Policy Act, the National Forest Management Act, the Endangered Species Act, and any other law or order from the court interpreting such law would be set aside? Is that what that means?

Mr. QUARLES. No, it doesn't. If you will note, first of all, this is section 304 which is part of title III.

Mr. JONTZ. Right.

Mr. QUARLES. What you were talking about earlier—and I want to make this distinction clear—was a general standing—

Mr. JONTZ. I understand the difference.

Mr. QUARLES. I also want to make it clear, Congressman, that there is case law to the effect that, in fact, you do have to raise the issue in the administrative process before you can bring it to the court. That case law is recent. It is the Idaho Panhandle National Forest plan—

Mr. JONTZ. You have to raise the issue in the administrative process.

Mr. QUARLES. That's right.

Mr. JONTZ. Of course, but that's not what that provision says. That provision says you have to have comment from the beginning.

Mr. QUARLES. No. You have to raise it in the administrative process and—

Mr. JONTZ. That's why your court case does not address itself to a particular—

Mr. QUARLES. You have to raise it not in the administrative appeal, but during the preparation of the plan. That's exactly what the Idaho Panhandle case said.

As to 304, Congressman, 304 has—title III has, if you will note, in other sections of the title, adopted NEPA and the Endangered Species Act into the title; therefore, it is not excluding that. It is simply saying, as title III does, that it will be governed by that title. That title includes NEPA and it includes the Endangered Species Act.

Mr. JONTZ. Would you read that language to me?

Mr. QUARLES. If you will look at section 306, section 306 includes both compliance with the Endangered Species Act and the National Environmental Policy Act.

Mr. JONTZ. So why are you writing in section 304(a)?

Mr. QUARLES. We are writing in section 304(a) to make certain that the provisions of the interim program govern the interim program. If there is any other law which you feel is important that has been missed in this, we would be happy to consider it.

The point here is that we want to ensure that there is both protection of the ancient forests and protection of the timber sales during the interim period. That's what this provision attempts to do.

Mr. JONTZ. I don't understand why you need the language then that says "subject only to the provisions of this title and notwithstanding any provision of law or order of a court to the contrary."

Mr. REY. For starters because Judge Dwyer's order would prohibit any of these interim sales from being sold.

Mr. JONTZ. And he has found that NFMA has not been met so, in fact, you are not incorporating NFMA.

Mr. REY. We are incorporating NFMA in the development of a long-term program.

Mr. JONTZ. You would not be meeting the requirements of NFMA as they have been interpreted by Judge Dwyer.

Mr. REY. Judge Dwyer has offered no interpretation of the requirements of NFMA. Judge Dwyer has said that the procedural requirements of NFMA require the Forest Service to go through notice and comment and——

Mr. JONTZ. Which they haven't done.

Mr. REY. Adopt a plan. That's correct. They're not going to do it any time soon.

Mr. JONTZ. Well they said yesterday that they would.

Mr. REY. They said that to us 6 years ago when the National Wildlife Federation challenged their first NFMA compliance measure. They aren't going to do it any time soon enough to save the jobs that we are worried about.

What you are doing in the interim program here is providing a bridge to assure that the agency has the time to implement the recovery provisions and other NFMA requirements.

Mr. JONTZ. But you don't know what the impact of those activities in the interim may be, so in essence you are suspending the requirements during the time of the sale program.

Mr. REY. What we are doing in the interim is setting congressional guidance that will govern the sale program and establishing consultation requirements under the Endangered Species Act. We think that's a fair combination for assuring protection during the interim while the agency goes about the task of developing a program for protection of old growth and implementing the recovery plan for the northern spotted owl.

Mr. JONTZ. But it is not meeting the requirements of NFMA.

Mr. REY. The requirements of NFMA cannot be met in the short term given the order that the judge has issued.

Mr. JONTZ. Well, the order the judge has issued is ordering the Forest Service to do something they were supposed to do some time ago by direction of the Congress.

Mr. REY. Mr. Jontz, we're arguing procedural hoops here.

Mr. JONTZ. It isn't procedural hoops if you can't get to the subject until you get to the substance until you have the procedure.

Mr. REY. Jack Ward Thomas offered to you in testimony yesterday that 3 years of interim harvest under a carefully prescribed program, which you would do in passing title III, will not harm or have a significant impact on the well-being of the northern spotted owl.

Mr. JONTZ. Well, that isn't what the Dwyer decision said at all.

Mr. REY. The Dwyer decision was a procedural decision. Judge Dwyer offered no findings of fact concerning NFMA's requirements. In his earlier decision he said that the agency did not

comply with the procedural requirements of NFMA and they must do so. In this most recent decision, he elected to enjoin the Timber Sale Program until that was done. He could have done that in a single sentence. He chose, instead, to write 35 pages. Maybe he is not as busy as we all are and had some additional time to spend.

But the point is that the agency still has to comply with NFMA, and that isn't going to get done soon enough to save the jobs that you indicated a concern about not but a few moments ago.

Mr. QUARLES. Congressman, I think it is also important to realize that in any kind of interim program to get to a long-term program you will not fully comply with NFMA. If you want to preserve old-growth forest in a 3-year program, you cannot comply with NFMA. You cannot amend the plans to protect the old-growth forest in that period of time.

What we are saying here is that congressional direction will protect the old growth despite the National Forest Management Act and will provide for sales despite the National Forest Management Act in order to successfully operate the National Forest Management Act, which the labor-management bill does by providing for doing this all through plan revisions and not through a statutory line drawing or overlay.

In fact, the labor-management bill wants to use the National Forest Management Act more than any other bill, but in order to get from here to there to both provide for timber sales and to protect the old growth you cannot do the National Forest Management Act fully. Congress has to instruct that the old growth will be protected and instruct that sales will occur to get to those plan revisions.

Mr. JONTZ. Well, obviously we disagree.

Let me just read this into the record from the Dwyer decision. "The loss of an additional 66,000 acres of spotted owl habitat without a conservation plan being in place and with no agency having committed itself to the ISC strategy would constitute irreparable harm and would risk pushing the species beyond the threshold from which it could not recover."

Let me proceed a little further, if we could.

Mr. SMITH. Mr. Chairman.

Mr. VOLKMER. Let him finish up, and then we'll—

Mr. SMITH. He's used 20 minutes already.

Mr. JONTZ. The chairman asked if anybody had any more questions, and I'm the only one who spoke up, but I have gone over 5 minutes, and I'd be glad to yield at this point, and I will take my turn on the next round.

Mr. SMITH. Mr. Chairman, you have been very patient and most of us have watched our time very carefully. We have two more panels of people here to listen to. If we want to get into a technical argument legally, I'd recommend the gentleman from Indiana do that without taking the subcommittee's time.

Mr. VOLKMER. I would just like to reemphasize after the gentleman from Indiana has read the statement, I think that Mr. Rey has already commented upon—or Mr. Geisinger—one of you commented on the expert upon whom the judge—

Mr. GEISINGER. That was the red-winged blackbird expert that said that, Mr. Volkmer.

Mr. VOLKMER. That the judge relied on. If the gentleman from Indiana wants to believe everything that the judge wrote, that's fine. Some of us don't believe everything that the judge wrote. That's the difference. And some of us question—and I think yesterday there was some question—about whether the person who so testified was actually an expert.

You can discuss that all you want to, but I don't see arguing with the witnesses.

Mr. JONTZ. Mr. Chairman, I wanted to read that into the record to respond to the impression that was left by Mr. Rey, the witness, that this was solely a procedural matter and had no substance to it. In fact, that's not what the judge said and I wanted to read that into the record for that point.

I do have an additional question with regard to the contents of the legislation which is before us in the hearing, H.R. 2463. If I can be allowed to ask the witness this point I would like to do that.

Mr. VOLKMER. Just a minute. Let me finish up.

Now, Mr. Rey, this statistical review—I've been able to read parts of it and I find it very interesting. This is of the ISC?

Mr. REY. The statistical review was of the later document which was the Fish and Wildlife Service listing status review. However, the research that the review was dependent upon was the same body of research that the ISC was dependent upon. I think you can say that the conclusions apply equally well to both documents.

Mr. VOLKMER. In other words, the fact that the Fish and Wildlife Service relied so much on some of these questionable bases leaves you some question for whether or not the spotted owl is actually endangered? Is that what you are saying?

Mr. REY. I think the better conclusion is that the notion of being able to establish the suitable habitat for the owl if it is endangered, which is the exercise that brings in all the restrictions, is a dubious proposition at best.

Mr. VOLKMER. Because of the lack of research and lack of knowledge about the spotted owl?

Mr. REY. That's right.

Mr. VOLKMER. There isn't that much knowledge about the spotted owl.

Mr. REY. There is no statistically significant basis based upon a research record of properly designed experiments to designate the suitable habitat of the northern spotted owl.

Mr. VOLKMER. OK.

Mr. REY. I'm told that's the correct answer.

Mr. VOLKMER. I understand what you are saying.

Now the judge, though, has said you do a recovery plan—

Mr. REY. One judge has said that.

Mr. VOLKMER. One judge has said you do a recovery plan, the other judge says the Forest Service does a management plan for viability of the same spotted owl, even though we don't know anything about it?

Mr. REY. Both plans are under court orders to proceed.

Mr. VOLKMER. Right. Under different judges.

Mr. REY. Under different judges. And both judges ruled on the procedural question of what the agencies' obligations were to develop those plans. Both judges also opined as to what they thought the

spotted owl needed. Neither judge, like many of the rest of us, are spotted owl biologists.

As far as Judge Dwyer's concern, it is arguable that, if the Forest Service put the Thomas Committee report out for notice and comment and fulfilled its procedural and NFMA requirements and sent it back to either that or a different judge, it would be upheld, although at this point we might be inclined to challenge it based upon the lack of statistical validity of some of its conclusions.

I think the more important point is not to quibble over who said what and what part of the judge's decision was valid and which part wasn't. The fact is we have to move forward from here. The recovery plan and the revision of the NFMA plans are what we are going to have to do to move forward from here. The key trick is to figure out what we do to get there from here, and that's title III.

Mr. VOLKMER. And if we in the Congress do nothing, then you are faced with not only this year a reduced harvest, but next year even further reduced harvest in the Northwest, because I don't envision that whatever plan—and I discussed this yesterday with one of the panels—that the Forest Service comes up with is going to be satisfactory.

Mr. REY. I think what you can speculate, based upon past history, is that the plan will be challenged.

Mr. VOLKMER. Yes. That's what I mean. The plan will be challenged by someone.

All right, gentleman from Indiana.

Mr. JONTZ. Thank you.

Let me inquire at this point, about section 107, Endangered Species Act compliance. As I understand this section, consultation would be allowed only once and would be reinitiated only when the forest plan was revised or significantly amended. Is that a correct interpretation of that section?

Mr. REY. The purpose of the section is to initiate consultation on the plan revision rather than waiting, as we do now, to initiate consultation on implementing activities for every timber sale.

Mr. JONTZ. At this point, let me note that yesterday Mr. Perry, a Counsel for the Agriculture Department, said that it would be unrealistic and wrong to try to—he agreed with the statement that it would be unrealistic and wrong to try to identify, analyze, and schedule the myriad projects or activities that occur on national forests in the span of time that is involved with a forest plan.

Mr. REY. That's a criticism on when to conclude consultation, not when to initiate it.

Mr. JONTZ. Let me inquire as to how it could be expected that consultation at the beginning would be adequate for the individual activities that might occur under the plan.

Mr. REY. This proposal has no expectation associated with it. There is nothing in this language that says when consultation has to be concluded.

Mr. JONTZ. How does this change the existing situation?

Mr. REY. It changes the existing situation because we don't even now initiate consultation until we have individual timber sales, and that won't be adequate any longer.

Mr. JONTZ. So you would say that we would have consultation at the beginning of the plan and consultation on the individual sales? Is that what this language provides for?

Mr. REY. This language is neutral as to the back half of your statement.

Mr. JONTZ. It says "initiated only when the forest plan is revised or is amended."

Mr. REY. That's correct. It is anticipated that if the Fish and Wildlife Service and the Forest Service decide on a reasonable program of consultation that extends through the period of implementation of the plan, that this does not preclude that. This does preclude the Fish and Wildlife Service and the Forest Service reaching an agreement about when consultation shall begin and when it shall end and then having that agreement overturned either by the demands of the Fish and Wildlife Service or by a third party appellant. It doesn't close the door; it merely says when the door is to be opened.

Mr. JONTZ. So under the present circumstances the Fish and Wildlife Service could initiate consultation at some time when, under this language, their rights to do so or options to do so would be limited; is that right?

Mr. REY. No.

Mr. JONTZ. Well then how is this different from the existing law, please?

Mr. REY. Under existing law—let me say it again—we do not initiate consultation at the plan revision level. That's the problem we're having with the red-cockaded woodpecker; because we didn't initiate consultation during plan development; we consulted more broadly at the preplanning level.

Mr. JONTZ. So you would have no problems with putting language in here making it explicit that the Forest Service could have consultation at the individual sale level, as well?

Mr. REY. If it is language that we worked on together, I'd be willing to entertain that.

Mr. JONTZ. If that's what your intention is—I'm trying to understand what the intention is of this section. You make it sound like what you want is more consultation; is that correct? You want more consultation?

Mr. REY. We want earlier consultation with the prospect and the hope that it will give us longer-term predictability.

Mr. JONTZ. You have no problems with consultation at some later point if that is the desire of the Fish and Wildlife Service; is that correct?

Mr. QUARLES. Congressman, if I could? In fact, I just returned from arguing a case in Missoula, Montana, on the Flathead National Forest, and this is very similar to what the Sierra Club is arguing there. They are very upset that there was not proper consultation, proper biological opinions on the threatened endangered species in that forest at the time of the plan. At that point the Forest Service tried to argue that it could not, in fact, consider all the projects that were occurring at the time it did the plan. The Sierra Club was very explicit in saying that's wrong, you can determine the projects at the time of the plan if you work hard enough at it.

That's our hope—that, in fact, we realize that in the past they have not done this. This doesn't grandfather former plans. But it is our hope—in this case it is one place where we, maybe, will be able to make common music. It is our hope, with the Sierra Club, that, in fact, you can, with aggressive consultation at the plan level, solve most of your consultation problems.

Mr. REY. I don't see any need to make explicit what is already an implicit requirement that consultation can occur later if necessary, because I suspect what we'll end up doing is providing a congressional standard that will require consultation rather than leaving it to the discretion of the Fish and Wildlife Service and the Forest Service to decide when it is appropriate.

Mr. JONTZ. This language says very clearly "thereafter, consultation shall be reinitiated only when the forest plan is revised or significantly amended."

Mr. REY. The operative word is "reinitiated." If consultation is ongoing, you don't need to reinitiate it, it is still occurring.

Mr. JONTZ. I think that the language is less than clear in terms of the ability of the Forest Service to initiate consultation on the same bases they can now, and if your interest is only ensuring that the initiation of consultation occurs earlier and that there are opportunities for consultation throughout the process so far as individual projects are concerned is not compromised in any way, then maybe we can reach some agreement on that point.

I thought I heard Mr. Quarles arguing that some parties felt that consultation at the beginning would preclude the need for consultation later on.

Mr. REY. I would hope that in some cases that would be the case.

Mr. JONTZ. I would hope that the Fish and Wildlife Service would have the ability to initiate consultation or continue consultation, whichever the right way of saying it is, at whatever occasion on the project level that they might find it necessary to do so.

Mr. REY. They have that authority now.

Mr. JONTZ. And we want to keep that.

Mr. REY. We retain that in this proposal.

Mr. QUARLES. Congressman, one of the reasons why the Sierra Club felt it was so important to have full consultation on the plan that would include the effects of implementing the plan is because consultation on most timber sales does not include a full biological opinion, or on road building, or on most other matters. As you know, Congressman, there are three different procedures under the Endangered Species Act that go all the way from a quick signoff to informal consultation to formal consultation. You only have a biological opinion from the Fish and Wildlife Service at formal consultation.

It is usually true that you can get a biological opinion if it is an entire plan, but if it is simply individual timber sale actions that doesn't happen. That's why the environmental community is so interested in seeing that kind of hard consultation at the plan level.

In this case, as I said, particularly if it facilitates the project level work under the Endangered Species Act, we would make common music with them.

Mr. REY. Take yes for an answer, Congressman. I think we may agree on this one.

Mr. JONTZ. That may be true.

As I have the chance to study more of these provisions, I'm sure I'll have more questions.

Mr. Chairman, I think that takes care of my questions at this point. I thank you.

Mr. VOLKMER. Thank you very much.

I have no further questions.

Do any other members of the panel have any questions? The gentleman from Oregon.

Mr. KOPETSKI. Yes, Mr. Chairman, just briefly.

I'd like to welcome my constituent, Mr. Geisinger, to Washington, DC. He is much more familiar to the halls here than I am, probably, at this point.

What is interesting is that the administration opposes everybody's bill. That might be a good sign, because we might be able to find enough good in all the bills to put together a winning package. In fact, what was interesting in yesterday's hearing—I hope you caught the significance of it—was that the administration was on record for the first time, to my knowledge, in supporting some sort of old-growth reserve designation.

I think it is important that folks keep in mind how far your industry has gone, and the leaders in your industry I'm sure have had tremendous debate about 6 months ago about the action to take in terms of this legislative session. I recognize and commend you and your leaders for the steps that you have taken.

I guess the nugget of a short-term solution seems twofold: One, a harvest level in the next 1 to 3 years; and, second, how you deal with sufficiency language so we are not running over very important laws and policies established by previous Congresses.

I don't know if you want to take a moment to address the sufficiency issue. I don't want you to be repetitive if you have already gone over it. But at least I'd like a commitment to come back with some creative ideas of ways that we might explore where sufficiency is something other than just a stamp by the Congress but some processes that if these hurdles are done then it is pretty good for this interim period that we are not doing damage to the policies of current law.

Mr. QUARLES. We would be happy to work with you, Congressman. There are two types of sufficiency, and we want to keep those very separate. One of them is the sufficiency that one would need during the interim program—sufficiency, as I said, to protect both the old growth and the sales. That sufficiency may, in fact, include, as our dialog suggested, some limitations on existing law, not any limitations on access to the courts.

The longer term is—and I get nervous when we use the terms "sufficiency" and "certainty" because what we are looking for really is predictability. We don't want to freeze anything. We are looking, though, for some sort of processes that ensure that once a decision is made it at least becomes important to walk through procedures before you willy-nilly change that decision. That is what we are very strongly attempting to do in the long-term program, and we'd be happy to talk with you.

That's the long answer.

The short answer is yes. We'd be happy to sit down and try as best we can to think up innovative ways of getting that done. We think we have done a great deal of that in here, but where it presents problems we are more than willing to talk some more.

Mr. KOPETSKI. Thank you.

That's all, Mr. Chairman.

Mr. VOLKMER. Mr. Geisinger, I do have one last thing I want to ask you to comment on. You discussed earlier the situation on Mount Hood. As I envision it, there has been a considerable amount of trees that have already been cut and replaced. We went over that. Now, we call that a secondary growth, correct?

Mr. GEISINGER. Second growth. Yes.

Mr. VOLKMER. How much of that second growth is now going to be unavailable for cutting, for harvesting?

Mr. GEISINGER. I can't answer that very precisely today, Mr. Chairman. I can try to get that data for you. Harvesting on the national forests in the Pacific Northwest really didn't begin until the late 1940's and early 1950's, and so the second growth that is on those forests is somewhere between 40 and 45 years old. How much of that falls into habitat conservation areas or critical habitat areas is a question I don't have the answer to today, but I can certainly try to find that out.

Mr. VOLKMER. I'd like to have that answer.

[The information follows:]

According to the Mount Hood National Forest Timber Staff Officer, there are 237,000 acres of second-growth timber on the forests 1 million acres. Under the new forest plan, only 170,000 acres is available for timber management. While some of this 170,000 acres is surely in 15c HCA's, the Forest Service does not have a precise number at this time.

Mr. VOLKMER. That intrigues me a bit, because you find statements of other witnesses who are proposing that we set aside all this area, and then saying that you need to cut on the secondary growth. But if you are not going to be able to cut on the secondary growth, that's not going to be available either.

Mr. GEISINGER. And even if it was available, there's not nearly enough of it to sustain more than 40 percent or 50 percent of the industry in that area. How much timber is sustainable—

Mr. VOLKMER. In other words, it is not available because the growth hasn't occurred yet?

Mr. GEISINGER. That's one part of it, but what determines the long-run sustained yield is the amount of land you have to manage. As that land base gets smaller and smaller, the sustainable yield gets smaller and smaller. And if we don't have access to the older age classes and simply start cutting down 40- and 45-year-old timber today, that just is a death wish for the future, and none of us are interested in that.

Mr. REY. Mr. Chairman, Mr. Spence also has testimony that speaks to your question more or less directly. I remember reading it last night.

Mr. VOLKMER. Yes. The other thing that intrigues me about the question of the gentleman from Indiana in regard to the provisions of H.R. 2463 in regard to the Forest Management Act and the proposed setting aside, or what have you, through the interim to be

able to do something—if I remember right, the gentleman from Indiana doesn't affect the management act in his bill; is that correct?

Mr. JONTZ. That's correct.

Mr. VOLKMER. You set aside all the land and you can't touch it. Now, that does affect the Management Act indirectly. You take it out of management. That's what you are doing.

Mr. JONTZ. If that's a question—

Mr. VOLKMER. All they're doing is saying I want to make a little change in the Management Act, while you are taking it completely out of management.

Mr. JONTZ. Is that an inquiry to me?

Mr. VOLKMER. No. That's an observation.

Mr. JONTZ. If the chairman would yield, what the legislation does is to provide interim protection for a period of 1 year—1 year—while a scientific study is ongoing so that the maximum flexibility is retained for the scientific committee to recommend to the Congress what they see fit as necessary to sustain the ancient forest. The scientific committee could come back and say we have lots of ancient forests already protected in wilderness, in parks, etc., and we don't need any more, and the Congress could say fine, that's good, we'll put all of that land that was in 1-year interim protection back into the timber base and off we go.

Or the committee could come back and say we think that what has been set aside in wilderness, parks, etc., is not enough, and that to sustain ancient forests as functioning, viable ecological systems, here is our recommendation, and then the Congress can act upon that recommendation and adopt them or take some steps that reach further or don't reach as far. That's what the committee recommends.

So you've got 1 year of interim protection. Under the Dwyer court order, we are talking about a sales program of 400 million board feet on the west side for this next year, at least through March, I don't see that as anything except protecting our options under the long run.

Mr. VOLKMER. Let me address the question to Mr. Quarles. As far as the land is described therein, isn't it effectively taken out of the Management Act?

Mr. QUARLES. My answer would be yes. First of all, the 1-year—

Mr. VOLKMER. Don't you effectively suspend all the plans in regard to those same provisions?

Mr. QUARLES. The 1-year program absolutely does that. It overrides NFMA in its entirety.

Mr. VOLKMER. It doesn't amend it or change it. It just says there is no effect.

Mr. QUARLES. That's right.

Mr. REY. And it would have a broader effect, by a substantial measure, than the Dwyer decision because the definition in section 32 of associated forests is so broadly written that it would affect not only the ancient forests defined earlier in that section, but lands adjacent to, approximate to, or contiguous with any track of ancient forest as so defined.

I think what you have to do is to say that H.R. 842 is a 1-year override of NFMA. I think another great problem with it is that it

provides no basis for what to do when the year is over and you have the scientists' report. It is arguable that at that point you will have to again revisit the question to provide the agency with some guidance as to how to implement, or whether to implement the scientists' report, and in what context.

If you want an example of what happens when you have a report of a committee of scientists when no such guidance is provided, you need only look at Judge Dwyer's decision because that is exactly what happened with the ISC report.

Mr. JONTZ. If the gentleman would yield further, the question is: Can the Congress respond responsibly to a scientific recommendation and balance various interests—national and regional, economic and environmental—based on the scientific input that would come from a study and make long-term decisions at that point. I have confidence that the Congress can. I think that with the recommendations from a scientific committee we can.

There is nothing at that point that we can do today that we couldn't do then in terms of the decision we might make. I have said repeatedly that there certainly is room for compromise in terms of the interim protection provisions. Under my bill, it would be the agencies that would determine the associate forest. I think that there is room to work out a 1-year or a 2-year interim protection program that includes some sales level that is obviously not what would have been the case 1 or 2 years ago, but would be the best sales program we could put together.

I don't think that's an impossible task, although it will be a difficult task. At the end of the year, the Congress will have scientific information and recommendations. It will be our decision at that point how to proceed. The National Forest Management Act will still be there. It will be in place to manage all lands from that point hence, if the Congress determines it should be in general forest classification. And if the Congress would see fit at that point to designate additional reserves, we would have the information upon which to make that decision.

I don't see that as a dangerous process.

Mr. VOLKMER. I thank the gentleman from Indiana.

I think that concludes this panel. I appreciate your testimony.

Does anybody else have anything they would like to say?

Mr. REY. The only other thing I would add in response to what Congressman Jontz said is that it seems we're moving closer to at least some outline for an interim program that makes some sense. I would say that what he just described is dramatically different than what is in H.R. 842.

Mr. VOLKMER. We're moving along where at least we have a pretty good economic program under the bill and we have some suggestions coming from the Governors of Washington, Oregon, and California in that regard. At least we're moving a bit.

Mr. REY. I would say the big difference with what Congressman Jontz just indicated is that I don't think Congress is going to come back to this a year from now with the benefit of additional information and grapple with this issue all over again. I have here the hearing record from April 4, 1990. We are all 1 year older now, and then some, and we were debating then what to do with a different

scientists' report—that being the ISC report—and trying to fashion a long-term solution to it.

We have existing processes, a recovery plan that is developing. What we suggest to you is to work on an interim program—I am encouraged by what Congressman Jontz said—but let's also work on a process to get ourselves to a long-term solution. We think we can do that this year, right now. The hearing record is right before us.

Mr. VOLKMER. Thank you very much.

That concludes this panel and we will now go to our next panel consisting of Robert L. Spence, president, Pacific Lumber and Shipping Company of Seattle; Mr. M.J. "Gus" Kuehne, president, Northwest Independent Forest Manufactures, Tacoma, Washington; and Mrs. Betty Orem, Port Angeles, Washington.

Mrs. Orem and gentlemen, your statements will be made a part of the record. You may either review that statement in full or summarize, however you so desire. I appreciate your patience.

We will begin with Mr. Spence.

STATEMENT OF ROBERT L. SPENCE, PRESIDENT, PACIFIC LUMBER AND SHIPPING CO.

Mr. SPENCE. Thank you, Mr. Chairman. I appreciate the opportunity to be here today.

I am Bob Spence, president of Pacific Lumber and Shipping Company. My grandfather, Carl Spence, and my father, Chuck Spence, established PLS in Seattle in 1932 as a lumber trading firm. As you can imagine, 1932 wasn't generally a good economic time to start a business. At that time, big established lumber firms were concentrating on selling their products primarily to the domestic market. My father and grandfather were pioneers in the marketing of west coast wood products to the international community.

Since that time, almost 60 years ago, the international marketing of wood products has become a major, multibillion dollar component of the forest products business, contributing positively to the U.S. balance of trade, and participated in by the largest and smallest of timber companies.

But it all started with small business people, such as my father and grandfather. This is the traditional role of small business in the United States. The small businesses in the forest products industry, as in most other industries, have traditionally set the pace for the large sector. Small business has played the role of stimulating new ideas in production techniques and in marketing. We are the experimental wing, if you will. We test new ideas. If they are successful, the larger firms take note and adapt their techniques to make use of what we have developed.

The small business sector in forest products has brought to our industry diversity in size, creativity, efficiency, allocation of capital, and increased opportunity. The single largest employer and creator of new jobs in the United States today is small business. This relates to the management of the national forests in that today the predominant purchasers of Forest Service timber are by far small businesses. Small business access to the resource base

brings a more competitive and productive return to the Government.

In the 1940's, when the big companies dominated the purchasing of Federal timber, approximately 60 percent of the resource was left as waste in the woods and stumpage was averaging \$7 per thousand board feet. Overnight, with the opening up of the resource to competition from small timber companies, the waste was reduced to 30 percent and the stumpage tripled to \$21 per thousand board feet.

The increased return allowed more progressive management and greater investment in the resource. In a visit to Oregon during his 1948 Presidential campaign, Harry Truman applauded what diversity of size within the industry had accomplished stating: "That 1 ounce of competition is worth a ton of regulation."

All this is to say that diversity in the makeup of an industry benefits the industry and the public. In order to be dynamic, there must be variety and competition. Competition stimulates creativity and individuality, resulting in a higher level of performance by everyone involved in the providing of products at an economically viable price to society.

In the 1970's, my family purchased three, old mill, facilities in east Lewis County, Washington. Over the past 20 years, we have invested heavily in these facilities, rendering them among the most efficient, technologically advanced mills in the world. We have achieved the status of the low-cost producer and the reputation for efficiency and creativity. Our expansion into mill facilities expanded our workforce of 30 people trading lumber in Seattle to 460 people predominantly based in four rural communities.

Such an expansion brought with it new responsibilities. Our obligation to the communities in which we are located is to play a constructive role. This is similar to the responsibility of the Government to communities where the Government is the major landowner, the major supplier of the resource. The company, as well as the Government, have entered into a social contract with the community by virtue of our presence there. If the communities of Randle, Morton, Packwood, and Rochester, Washington could be likened economically to a three-legged card table, our operations there would most certainly be one of the legs.

The picture is clear in terms of what happens to such a table if one of the legs is missing. If either of us—the company or the Government—do not abide by the contract, the community suffers. People lose well-paying union jobs in our case, property values decline, and families are forced to relocate. The community's ability to support the infrastructure is lost. Schools, hospitals, and local government services are all jeopardized. The property tax base is severely reduced, leaving those that stay with a far greater share of the burden.

Consequently, we recognize that our commitment to those communities is stability of employment. The Government's responsibility is stability of land management policy to provide a steady and reasonable supply of timber.

Federal land management decisions over the past 10 years had the net effect of major reductions to the public commercial land base. Such policy is a substantial threat both to continued diversity

within the forest products industry and to the well-being of timber-dependent communities.

The concept of sustained yield forestry is based on the amount of land in the commercial base. What is sustainable is calculated by determining the amount of acreage in the commercial land base, the production capability of each acre, and the desired rotation age of the forest. But by gouging the land base with wilderness withdrawals, research natural areas, buffer zones, evaluation lands, habitat set-asides for individual species, the concept of sustained yield is completely gutted.

The result of these massive withdrawals from the commercial land base is to eliminate the acreage on which the next 50 years rotation schedule is based. It is impossible to have adequate future supply without the land base. Yes, there are acres left in the commercial land base, but they will not be ready for harvest for another 40 plus years in many cases.

Those that are trying to shut down the Federal Timber Sale Program, under the guise of environmentalism, understand the rotation and have strategically targeted those lands. The reason we're all here today is that they have been successful. The Federal Timber Sale Program in the Pacific Northwest is completely paralyzed.

It is my belief that we should go back and review the wisdom of wholesale land withdrawal from the commercial land timber base. We need to take a new look at the concept of sustained yield, possibly harvesting less acres per year than we have in the past, but we should spread out the harvest over a broader land base instead of continually withdrawing acreage from the base, which results in concentrating the harvest and the environmental effects in a more intense manner.

If we could reallocate previous withdrawals, disperse the harvest, look at the possibility of an extended rotation consistent with each forest's characteristics, it is possible that we could achieve a reasonable balance between economic and environmental concerns.

As an example of this concept, the forest that supplies our mills, the Gifford Pinchot, consists of a total land base of 1.4 million acres. Of that, approximately 1.16 million acres are forested. Of the forested land base, 485,000 acres are considered unsuitable for a variety of reasons, including wilderness, unstable soils, regeneration problems, et cetera.

I have included an attachment in my remarks to demonstrate that.

The current suitable land base available for timber production under the new forest plan is 676,500 acres. On a 100-year rotation, it would be possible to log 6,765 acres per year. If the average yield per acre is 50,000 board feet, the average annual harvest would total 338.25 million board feet.

If you considered extending the rotation to 150 years, providing increased habitat and other old growth associated amenities, it would reduce the acres logged to 4,510 acres per year, a reduction by one-third of what is logged on a 100-year rotation. Production, however, would increase because the timber has grown, providing as much as 70,000 to 80,000 board feet per acre in yield. This would

result in an average annual harvest volume of 360.8 million board feet—more volume provided with fewer acres being lost.

So, you see, there are opportunities to balance the responsibility we all share to the environment—to the good stewardship of our public lands—with the growing world demand for wood products and the concerns of people in hundreds of rural communities who produce these products. I know we can protect species and habitat as well as people and their way of life.

It is possible to maintain a diverse and innovative forest products industry without giving up diverse, ecologically rich forests, but we cannot accomplish such a balance if the land base on which all of these things rely is continually segmented off and dedicated to single exclusive use for one species or for one group of people.

Teddy Roosevelt summed it up at the 1908 National Conference of Governors on Natural Resources saying, "Finally, let us remember that the conservation of our natural resources, though the gravest problem of today, is yet but part of another and greater problem to which this Nation is not yet awake, but to which it will awake in time, and with which it must hereafter grapple if it is to live—the problem of national efficiency, the patriotic duty of ensuring the safety and continuance of the Nation."

Thank you, Mr. Chairman.

[The prepared statement of Mr. Spence appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you.

Mr. Kuehne.

STATEMENT OF M.J. "GUS" KUEHNE, PRESIDENT, NORTHWEST INDEPENDENT FOREST MANUFACTURERS

Mr. KUEHNE. Thank you, Mr. Chairman and members of the subcommittee. I am Gus Kuehne, president of Northwest Independent Forest Manufacturers, an association of about 45 mills in western Washington, though I admit we may have lost a couple of them in the last couple of days that I don't know about yet. I usually find out at the end of the month when I find out what people are still sending me checks and are still in business. Sometimes I don't know about it until I read it in the newspaper.

These people manufacture lumber, plywood, shingles, and log on the Olympic and Mount Baker-Snoqualmie National Forest, which is the northwestern part of Washington State.

I want to say that on behalf of NIFM members, we support H.R. 2463, with provisions that will allow for an alternative of what we term "high quality forestry" to the reserve system, which is identified in H.R. 2463. We believe that we can do a better job of managing for owls and timber by, in essence, growing owl habitat, much as Mr. Spence has mentioned, rather than a preserve system of additional areas preserved.

Before I get into the specific comments, I would like to make a couple of observations. First, I think it should be apparent to all that the spotted owl, in essence, is being used as a surrogate for in fact an ancient forest reserve system, or an old growth reserve system. Though I think this relationship as a surrogate is weaken-

ing daily as more information becomes available on the actual areas that owls will use.

Also, I will say that there is in fact a battle here going on—if you will, a turf battle, both professionally and between agencies—over who in effect has the control over the management of these public lands. I believe as a graduate forester of Michigan State University, and practicing forester for over 30 years in the Northwest, that in fact silviculturalists and foresters can best determine how in fact to manage timber stands to create various conditions.

It is up to the wildlife biologists to tell us what conditions the owl and other old-growth dependent species need, and then it is within the expertise of the silviculturalists to say how in fact those forests can be managed to accommodate the needs of that species or species.

First, old growth and owl habitat, as I have said, are not synonymous. Regarding owl habitat—about one-third is not old growth. In fact, with new evidence, it may be as high as 50 percent of owl habitat not being old growth in that we are finding owls in timber younger than 200 or 250 years old, or whatever definition you might give for old growth. Owls are found in timber at least around 70 to 100 years old and evidence is coming in that it may even be in stands younger than that. The two are in fact not synonymous.

Also, there is much of the old growth that isn't owl habitat. In fact, as much as one-third of the old growth is at higher elevations than the owls use. So this is kind of becoming unraveled as far as using one to do for the other. I hope that the members, in looking at legislation, will sort out what they are intending to do here, whether it is to protect owls or to establish an ancient forest reserve system. They are not synonymous.

As far as the area that I am most familiar with, which is Olympic Peninsula of western Washington and the North Cascades running from Mount Rainier on the west side north to the Canadian line—in this area of the world, we have reserved more old growth—soft wood timber than any similar sized region of the world. We have in fact 57.4 percent of the old growth that exists in western Washington, western Oregon, and the owl forests of northern California.

While at this time we have over 57 percent of the area that is reserved in old growth, we only have 30 percent of all the old growth that exists in the Northwest. So we have far more of our old growth already reserved than other parts of the spotted owl forests in the Pacific Northwest. I start from that base in asking in fact that no further reserves be made of old growth in the Olympics and North Cascades since we lead the world in old-growth reserves.

If you want to create an old-growth reserve system, this isn't the place you would look. We have an old-growth reserve system that was established by many of the members of the current delegation as well as those going back into the Franklin and Teddy Roosevelt days.

I would also like to emphasize that we have lost more old growth in the Olympic Peninsula and North Cascades to fire than we have to logging by about 3 to 1. Fire is a greater threat to old growth, in

my opinion, than is whatever logging might occur over the next several years or the next several decades.

As I said, over half of the parks and wilderness areas that have been established have burned over and are not now old growth because of those fires that have occurred. This is certainly a threat to these areas and fire protection is not adequate currently to avoid the kind of disasters that we have had in the past in these areas and similar to what occurred in Yellowstone just several years ago.

What I call for is a system of increased fire protection and to attempt to move these reserved areas from about 45 percent old growth, as they are at this time, to about 85 percent old growth over the long term. Now, most of these fires burned 60 to 80 years ago, and are well on their way to being owl habitat and on their way to being old growth at some time in the future. There are some 150 year old stands as well in these areas and they will become old growth if protected from fire. If that occurs, we will have, in fact, more old growth in the parks and wilderness areas two centuries from now than we have on all ownerships in the western Washington area today.

I would next like to address the spotted owl issue, which I say is a separate issue. On these two national forests, we would like to grow owl habitat rather than reserve it. We are calling for a new integrated system of forest management, which we term "high quality forestry," it would look toward longer rotations and commercial thinnings. These practices would provide openings in crown canopies that would be established under prescriptions developed by wildlife biologists in concert with silviculturalists to meet the needs of these species by growing stands of trees from 150 years to as long as 200 years, this would in fact providing better habitat for owls than they probably have under old growth conditions today.

We would grow trees that would then either die naturally or be killed on purpose in order to provide snags and we would retain those in the stand as either downed logs or snags, and through the age of the stands from 70, 80, 100 years and up to 200 years when regeneration cutting would occur.

We would encourage much heavier reliance on seed tree and shelter wood systems of regeneration cutting.

We would also urge research into the use of more aerial harvesting systems and have provided in our submitted statement research projects that are being done in cooperation with the Pacific Northwest experiment station under their new perspectives research program. This program will both research aerial means to be developed to harvest some of these stands in roadless areas as well as to do research into other "high quality forestry" techniques and commercial thinning programs that we are suggesting.

In the long term, the idea, as Mr. Spence said, would be to do less final harvest cutting, less regeneration cutting, to get a higher percentage of your harvest off of commercial thinnings and other means to open canopies to provide for two-tiered stand systems that would have in the understory Pacific yew, hemlock, and other species that are normally found in old-growth stands.

We're confident that through this system we will not only provide better owl habitat than exists, but we will also—through this

action and the increase fire protection action I called for earlier—have more old growth in this area 100 or 200 years from now, than exists today. In addition, the higher quality timber that we will grow, under 200 year rotations, combined with a pruning program that would go in at about age 40 through 60, we would grow higher quality timber that provides more value added type of manufacturing jobs than normal.

So the reduction in yield that we expect would be somewhere around 25 percent from that normally obtained, but it would be made up for in jobs by a higher level of jobs in secondary manufacturing and primary manufacturing as a result of higher value added logs and timber that would be produced.

Thank you very much for time to comment.

[The prepared statement of Mr. Kuehne appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you, Mr. Kuehne.

Mrs. Orem.

STATEMENT OF BETTY OREM, TRUSTEE, HAROLD M. AND BETTY F. OREM TRUST

Mrs. OREM. Good afternoon. My name is Betty Orem. I am a life-time resident of Port Angeles, Washington and a trustee for the Harold M. and Betty F. Orem Trust. Its corpus is a 27-acre stand of trees which abuts the Olympic National Forest and is classified as a tree farm.

My father purchased the land in 1928 from Mr. Joe Duke, who was the original homesteader on the property. Mr. Duke had only cut trees to provide firewood for himself, to build his house, and to prevent trees from falling on his house. After my father bought the land, he cut only one tree a year for firewood. My husband and I used the trees that Mr. Duke had felled and left on the land to build our house. The timber stand has otherwise never been cut.

The trees on the property form a triple canopy of old growth, second growth, and understory. Some of the trees are over 300 years old; most are Douglas-fir.

In April and May 1989, the Forest Service carried out a clear-cut operation in the national forest next to my property. While clear-cutting and burning the slash, the Forest Service burned and otherwise damaged a number of my trees. The damage will impede the future growth of these trees. Moreover, they will eventually become diseased and spread disease to other trees if they are not removed.

I paid for an appraisal of the damaged trees and filed a claim for damages with the Forest Service in May 1989. The damaged trees were valued at \$2,518. In November 1989, the Forest Service notified me that my claim had been received but that additional information was needed before it could be processed, including documentation that I had mitigated the damage by selling any salvageable material.

It became important to remove the scorched and otherwise damaged trees, not only to comply with the Forest Service demands, but also to prevent the spread of disease to other trees. I was also

advised that I should conduct routine thinning on my property in order to maintain the value of the remaining timber stand.

I contacted David Erickson, the owner and operator of Erickson Busheling Company, a contract logging company in Port Angeles, and he agreed to remove the damaged timber and to conduct the thinning operations. We submitted a forest practices application for approval to conduct these activities to the State of Washington Department of Natural Resources in September 1990. Also in September 1990, almost a year and a half after I had originally submitted my claim, the Forest Service approved my claim for the damaged trees, but paid me only \$2,287.

I was subsequently notified by the DNR that there was a northern spotted owl nest in the Olympic National Forest about a half mile from my property line. I was told that because of the nest, the State of Washington Department of Wildlife would have to inspect my property and evaluate my application before it could be approved.

In January 1991, I discovered that the DNR and the department of wildlife would allow me to perform only a portion of the cutting I had originally requested and not enough to preserve the value of the tree farm. I notified the department of wildlife that I would accept these conditions only under protest.

Finally, on March 6, 1991, 6 months after I had originally applied for the permit, the DNR formally notified me of the activities that would be permitted on my property. The restrictions imposed are as follows: Any road construction or harvest activity is restricted to the time period of September 30 through March 1; within 100 feet of the south property line, only blown down, fire damaged, and killed timber, or timber damaged from the previous Forest Service harvest are allowed to be cut; no standing timber in excess of 30 inches in diameter may be felled without prior approval from the department of wildlife and the DNR; and the DNR must be notified 48 hours in advance of any timber harvest activities on the site.

The approval also states that the conditions on this application do not insure compliance with the Federal Endangered Species Act.

These restrictions are effectively a denial of my application. It will be impossible to access my property to conduct the activities, since they are only allowed during the wet season. The DNR has since modified the restrictions to allow road construction and timber harvesting from August 31 to February 15, but in spite of these changes it is still next to impossible to conduct timber harvesting activities.

The trees damaged by the Forest Service operations have already become diseased and have lost any salvage value. Since I am unable to perform any thinning, the value of the other trees on my property is dropping. DNR has relied on unlawful regulations, which I and others have challenged in litigation, to impose these restrictions on my property.

Moreover, I fear an Endangered Species Act, section 9, enforcement action based on the same unlawful regulations if I do not comply with the restrictions. I urge this subcommittee and the Congress to intervene in this issue and bring some sanity back to the interactions between small, private landowners like myself and the Federal and State governments. I would like to be able to

manage my land in an environmentally sensitive fashion. I am presently being prevented from practicing good forestry by the Government agencies that should be encouraging my efforts.

Thank you.

[The prepared statement of Mrs. Orem appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you very much, Mrs. Orem.

Mr. Spence, has there been any reduction in the timber volume for your mills?

Mr. SPENCE. Presently, Mr. Chairman, we are still operating at our normal rate. The amount of timber being offered for sale by the Forest Service has dramatically dropped. We normally were operating on a sale level through the H.R. 318 legislation that operated last year that provided timber for sale, and we purchased that volume that we were successful at the auction for last year. So we have a standing inventory of timber that will probably sustain our operations for maybe 2 years.

The availability, though, after that is gone, is in doubt, and that is what has put us at risk. The amount of timber that has been sold so far in that same area to date is something less than 1 million feet out of a harvest volume previously averaging 120 million feet per year.

Mr. VOLKMER. You buy off the Pinchot and what else?

Mr. SPENCE. Pardon me?

Mr. VOLKMER. You buy off the Pinchot?

Mr. SPENCE. Off the Gifford Pinchot, yes sir.

Mr. VOLKMER. And what else?

Mr. SPENCE. We buy from private harvest that is available in the surrounding areas, we buy from the Yakima Indian Reservation, and we buy from the State of Washington Department of Natural Resources land. And we do have a small amount of our own acreage that we harvest off of occasionally.

Mr. VOLKMER. Out of the total lands that you can buy from, has any of that been impacted so far by the spotted owl or the critical habitat area or anything?

Mr. SPENCE. Yes, they all have. Our private lands have been impacted, the department of natural resources lands have been impacted, even current timber sales that we own that we have purchased from the State department of natural resources have been restricted and we have been informed that we will lose some of those contracts, or lose units on those contracts, because of the spotted owl.

On the Yakima Indian Reservation, the amount of acreage that is included in the habitat around the nest site is in dispute at this time, so there is a debate going on about some of the timber that is under contract on the Yakima land base.

In the Forest Service, of course, as you have heard for the last day and a half, the impacts are tremendous.

Mr. VOLKMER. What about the private timber that you all own?

Mr. SPENCE. A good example of that is a tract that we own that is about 2 miles from our Morton operation. It is a 30-acre tract that we purchased some 5 years ago. We were told—we had filed for a forest permit under the State—

Mr. VOLKMER. The same as Mrs. Orem had to do.

Mr. SPENCE. Exactly the same.

Then we began to hear rumors that there were owls in the area. We subsequently decided that if we did not harvest it, we would probably be in jeopardy of losing that timber or become subject to the same kind of problems Mrs. Orem has undergone.

We have harvested 80 percent of that. Since we harvested it, they came in and told us that the owl pair had been identified and located, and because the circle included part of that tract, they stopped us from harvesting the last 20 percent. Now it is a debate between ourselves and the department of natural resources on whether or not we can finish harvesting it.

It points out a problem, though, that has developed out of this whole debate over the last 15 years. By withdrawing land, for whatever reason, we have compressed the amount of acreage left against the available capacity—the installed conversion capacity in the area is substantial. It has set off a frenzy, if you will, because everybody is getting desperate not only to feed that capacity, but to ensure that they don't lose value that they have invested in that standing timber.

Right now, the concentration of harvest is dramatically going up on the private land base because of the restriction on the public land base. The net effect is to cause an environmental catastrophe, in my opinion, on that private land base.

Mr. VOLKMER. The stress would be put on the private lands, and they would just be cleared off because of the pressures.

Mr. SPENCE. It's creating what we refer to in forestry as the gap. We were looking at a gap in the early days of the planning process that would take place in this decade and into a portion of the next decade, but the net result of what is happening now is that we are extending the gap.

So I would predict that if this process is not changed that we will end up with a dramatic wood supply shortage within 10 to 15 years.

Mr. VOLKMER. Is it true also that on some of the private lands that the trees that would normally be permitted to grow another 10, 20, or 30 years are going to be cut?

Mr. SPENCE. It's happening now and I believe that process is accelerating. I think all of us that have timber that understand the implications of that are trying to restrain ourselves from having to do it. But like myself, if we get down to the point in about 2 years where the timber harvest that is accessible off the public land base that we have depended upon goes down, then we will be forced to go in and accelerate harvest on what we're growing now, which means that we have to dip into a younger age class. That has negative results.

Mr. VOLKMER. And that won't be available when it should be available.

Mr. SPENCE. That's right, sir.

Mr. VOLKMER. The gentleman from Washington.

Mr. MORRISON. Mrs. Orem, you don't look like a timber baron to me.

Mrs. OREM. I'm just trying to get along.

Mr. MORRISON. That's how you've been described, by the way. I guess you sort of get caught up with everyone else in this mix.

Our last panel last night—I'm not sure whether you were here, but we explored some of the reasons why you're caught in part of the web that is unfortunate because of ties in Washington State law back to the Endangered Species Act at the Federal level. We will see what we can do about this.

Bob Spence, I particularly want to ask you—your operations are noted for their efficiency. One of the comments that we have heard both from Judge Dwyer in his decision and repeated here from some members of the environmental community is that these job losses in the Pacific Northwest were going to come anyway, that as we increase our efficiency in mills like yours that there is going to be a dramatic layoff of people anyway.

As I have driven past your Packwood facility, I sense it is one of the most efficient in the Pacific Northwest—you have already made those steps. You have automated the green chain, and I see a whole host of things that you have done. Aren't the mills that are surviving now—even though Gus Kuehne is not sure of his membership—really they have already taken a number of these steps that make them the most efficient producers in the world?

Mr. SPENCE. Mr. Morrison, the issue of economics is one that I hoped I would have a chance to address. The classification of the timber industry putting people out of work because of efficiency is at best a misuse of semantics, I believe. Our operations, for instance—there are several reasons that we have invested in our facilities.

One is that it is necessary in an international marketplace to invest, and to invest aggressively, to keep up with the competition that comes from all over the world, to compete with people that have wood processing facilities in the Soviet Union, we compete with the Japanese that have wood processing facilities, and we compete with the Canadian industry that is extremely efficient. If we did not invest, we would not be able to maintain our position in those markets.

Our company takes pride in the fact that we employ the same number of people that we did in 1970. We have not laid off people because we invested. What we have done is to increase and add value to the wood products that we produce. In fact, in the industry, there has been a change in the structure.

The people that are talking and acting as if they are experts on this issue have failed to define what they mean by a change in job base. The enhancement of wood products indeed has increased the number of people working in this industry. We are shipping more product in turn and are using more jobs in the transportation industry. We are employing more people creating the machinery that we have put into those facilities. We have enhanced the utilization of wood 10 times in the last 20 years and all those enhancements involve people that are processing those products at different stages. It could be secondary levels or it could be a third process level. The idea that we are using less people simply is not true.

Mr. MORRISON. And even with further improvements, I presume that you would maintain the same philosophy, that you will keep those people employed, but you will attempt to produce more value-added wood products.

Mr. SPENCE. Yes. Just recently—at the Packwood facility that you're talking about—we put in dry kiln facilities. We spent a little over \$10 million not only on the new boiler complexes but the dry kilns and the storage sheds to do that. The reason that we put the dry kiln facilities in is that it enhances the value of the wood, and it also increases the ability to utilize it. In making windows and doors, for instance, you need dry wood.

We have now entered into a process to create a cut-up at our Randall facility so that we can utilize the downfall portion of the lumber that we produce—the low-grade lumber—and put it into a higher value product. The ability for us to continue to do this, of course, depends on whether or not we can count on the Forest Service or timberland owners, if you will, to be able to continue to grow and provide wood for a commercial basis.

Mr. MORRISON. You're in a sensitive area because, of course the Gifford Pinchot—named after the founder and the first Chief of the Forest Service—is one of those very hard hit because of its proximity to the Olympic, which is almost incapable of producing owls now because of the fragmentation—at least according to the experts.

Gus Kuehne, I am almost out of time, but I wanted—since you are the advocate of this extended rotation concept high quality timber approach—to ask just a little bit about this. Do your members see this as being an answer for the Mount Baker/Snoqualmie and Olympic, and would it work elsewhere as far as providing a perpetual rotating older growth format?

Mr. KUEHNE. Yes. We developed this program within our board of directors and support for it is unanimous within our membership. What we're convinced of is that it is the direction of the future. There are probably other forests—as Bob has indicated here today, he is interested in this concept being utilized. It will have to be fashioned differently on different forests.

Yesterday, Norm Johnson testified that on the Siuslaw, where there isn't any 200-year-old timber, you would use a different mechanism to in effect provide the habitat. You might in fact put in some sort of a provision that a certain percentage of the forest would always be over a certain age class. If you found down there, for example, that owls basically used the forest in age classes 70 and older, you would provide that a certain percentage of the forest—whatever is felt would be necessary by biologists to be in those conditions—would in fact then always be in that age class. Then the rotation length would fall out of that formula.

So as I said, the situation can be adapted to other forests. The idea behind it, again, is to grow habitat for old-growth dependent species rather than continually shrinking the land base, as has been the history of all these things, and then intensively managing as industrial tree farms within the national forests on those small remaining acreages. Then people get all excited because 95 percent of the people that visit the forest stay on the roads—that's all they see. People think the whole forest is like that. The other half of the forest, which is undeveloped, only 5 percent of the public ever see. So you get all this public concern about harvesting as a result of all that.

We want to change that spectrum, in essence, to a gentler forestry over a larger land base. We think that's the answer, and it's the

answer for not just the owl, but all the other critters that have been frequently named at this hearing.

Mr. MORRISON. Thank you.

Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from Indiana.

Mr. JONTZ. Thank you, Mr. Chairman.

Thank you to all the witnesses for your testimony.

Mr. Spence, we got into an issue in the last panel that maybe you can see if my understanding is correct on. You purchase timber from the Gifford Pinchot?

Mr. SPENCE. Yes, sir.

Mr. JONTZ. And the Mount Hood?

Mr. SPENCE. Not the Mount Hood.

Mr. JONTZ. The Gifford Pinchot in Washington State.

When did large scale commercial harvest or cutting of timber on the Gifford Pinchot begin?

Mr. SPENCE. Actually the town of Packwood where our Packwood sawmill exists is one of the oldest and longest-running sawmills on the west coast. It was back in the 1930's that it was established there. I might add that it has run continuously since that time.

The harvest began, as they pioneered back into the forest in those years. That was the beginning of the development, or extension of the development, of the sustained yield concepts and the commercialization of the forest. So the harvest slowly began to develop as the access to the forest improved.

The 1940's experienced an acceleration of that activity and really could probably be said to begin the commercial development of that forest.

Mr. JONTZ. What sort of rotation are we talking about on the Gifford Pinchot? Is it 80 years, 100 years?

Mr. SPENCE. On the National Forest Service System in region 6, they varied a little bit, but generally the rotation is based on a 100-year rotation. I included that in my comments.

Mr. JONTZ. So basically we're not cutting any trees on the Gifford Pinchot that we have planted.

Mr. SPENCE. Fundamentally, the way they set up the rotation on the sustained yield basis is that they started with the oldest most decadent trees that they could access. That didn't mean that they were all that way because they had to build the road system in. So they went through the higher grade stands getting to the more decadent trees.

The harvest, though, does incorporate some harvest of younger trees. We currently do harvest some younger trees that have been offered for sale off the Gifford Pinchot.

Mr. JONTZ. How old would those be?

Mr. SPENCE. They've been down to 60 years.

Mr. JONTZ. Well, even so, assuming that the cutting began in 1940, there wouldn't be any trees that we would have planted that would now be 60 years old. We might have planted some trees after a fire at the turn of the century or in the 1920's, but my point is that on none of the forests in the Pacific Northwest are we cutting trees that we have planted.

Mr. SPENCE. We are cutting trees that we have planted. There is a combination of elements. In these forests, they are dynamic and

there is no one age class. Even before the commercial harvest started, the age class in these forests was diverse and varied.

Mr. JONTZ. Then we would have to be cutting trees younger than 60 years old.

If we didn't start cutting trees until—let's just pick a figure—1940.

I thought you said very distinctly the 1940's. Did you say the 1940's, Mr. Spence, or did I misunderstand?

Mr. SPENCE. No, I said they started back in the 1930's, but they really began to accelerate the harvest in the 1940's.

Mr. JONTZ. Substantial commercial timber sales in the 1940's?

Mr. SPENCE. Right.

Mr. JONTZ. So if we pick 1940, if trees were planted following cutting in 1940, those trees would be 51-years-old.

Mr. SPENCE. That's right.

Mr. JONTZ. So by and large there aren't that many 50-year-old trees that we're cutting. Is that correct?

Mr. SPENCE. That's exactly right. I would like to make a point about that.

Mr. JONTZ. All right.

Mr. SPENCE. We just recently were offered sales that were basically thinning sales involved in those younger trees. I doubt that they would have put those sales up if they had not had the land withdrawals. It forced them to compress their harvest into some of those areas.

Mr. JONTZ. I appreciate that. That's something I hadn't really thought about.

Mr. KUEHNE. Can I add something to that?

Mr. JONTZ. Sure.

Mr. KUEHNE. In similar forest types in western Washington to those on the Gifford Pinchot, Olympic, and Mount Baker-Snoqualmie, in the Douglas-fir areas of Puget Sound on private lands harvesting began 150 years ago. So it isn't that we're without experience, also—some of the third crops have been harvested, in fact. There are thinning programs on top of that. So it isn't as though we don't know anything about harvesting in those ages—

Mr. JONTZ. I wasn't suggesting that. Obviously cutting has occurred on private lands for much longer. The thought hadn't really occurred to me that by and large we're not cutting trees on public land that we planted. Hopefully sometime soon we will, but right now at least we're not.

Mr. KUEHNE. The basic reason for that is the rotation age.

Mr. JONTZ. I understand that. I appreciate that. I'm not suggesting that we cut 30-year-old trees. I'm just saying that we haven't reached a mature stage yet as far as trees that we have planted.

Mrs. Orem, we did have an interesting discussion last night about the problems with the State and the Federal interrelationship. The advice the foresters gave to you was to do some thinning. Is that what you wanted to do to maintain the value?

What would be the diameter of the trees that you would be cutting when you are thinning?

Mrs. OREM. It would depend on the tree. Some of them are from 6 to 20 inches, and some are more. There are several old growth

that we're not at all sure are sound. If they're not, they should come down.

Mr. JONTZ. I guess I'm trying to understand the situation you face. The way it looks to me, reading through this statement, you have your road problem at least partly solved. They are not going to let you cut any timber within 100 feet of your south property line, but other than that, the only requirement is that you have to tell the DNR what you're doing.

Mrs. OREM. No, from the south property line I have a strip 100-feet wide which does not include all the trees that were damaged.

Mr. JONTZ. I don't know how much of your acreage is within that—

Mrs. OREM. It's about 3 acres.

Mr. JONTZ. That's 3 acres out of how many acres?

Mrs. OREM. Out of 27.

Mr. JONTZ. So a little more than 10 percent?

Mrs. OREM. Yes.

Mr. JONTZ. But for the rest of your property, the only requirements are that you have to notify the DNR.

Mrs. OREM. No, we can't do that at all. We can't thin it.

Mr. JONTZ. I don't understand that. It says that the four restrictions are the road construction problem, the 100-foot south property line, which is 3 acres, no standing timber in excess of 30 inches of diameter without approval of the DNR—

Mrs. OREM. Well, are they going to approve it or not?

Mr. JONTZ. I don't know. Have you asked them?

Mrs. OREM. They know that it is damaged. Some of it is 57 inches.

Mr. JONTZ. I appreciate that. I'm trying to figure out how to solve your problem. Have you asked them whether or not they would approve it?

Mrs. OREM. No.

Mr. JONTZ. And then you have to notify them 48 hours in advance.

Mrs. OREM. I have applied before. If they were going to approve it, why do I have to run back to them?

Mr. JONTZ. I don't know. When you applied before, what did they tell you?

Mrs. OREM. These things.

Mr. JONTZ. All right. But it looks to me like you meet the requirements.

Mrs. OREM. I think I do.

Mr. JONTZ. Then it looks to me like if you meet their requirements you ought to meet their approval.

Mrs. OREM. But they don't give it.

Mr. JONTZ. But you asked them and they sent this back with this list, which looks to me like you satisfy all those conditions.

This confuses me because it looks to me—I bet your Representative's caseworkers are good enough to get this through the redtape. If we couldn't get this done in Indiana, I'd be surprised in terms of my caseworkers. It just looks to me like these are requirements except the 3 acres. It looks to me like you have this bureaucratic redtape, which we all regret, but I'm just trying to figure out if there is something to it that I don't see because in a thinning oper-

ation you're not talking about very many trees over 30 inches in diameter, certainly telling them 48 hours in advance isn't going to be a problem because you're going to know long before that when you plan to go in, and if you forget the 3 acres—which I know you don't want to do—but that leaves 24 acres to thin, it appears to me that this is a problem that can be solved.

Mrs. OREM. The wildlife biologist said that the owl needs that. There is no human habitation on three sides of me for miles and miles.

Mr. JONTZ. I guess what I don't understand is that the DNR formally notified you of the activities that would be permitted on your property about 2 or 3 months ago. I don't see which of those requirements you couldn't meet, but I understand the point of your testimony. I just wanted to see if I understood the specifics of it.

Thank you.

Mr. VOLKMER. The gentleman from Oregon.

Mr. SMITH. Mrs. Orem, there is no question about the facts. The facts are simply that because of the spotted owl you can't harvest 3 acres and you've been restricted—

Mrs. OREM. I can harvest 3 acres, but I can't thin the rest of it.

Mr. SMITH. You can't thin the rest of it.

Mrs. OREM. I cannot harvest it.

Mr. SMITH. Does that diminish the value of your property?

Mrs. OREM. Yes, it does.

Mr. SMITH. Is there a taking law in the State of Washington that you could sue under?

Mrs. OREM. I don't know.

Mr. SMITH. Well, there is going to be one in Congress because I introduced it. If the gentleman from Indiana would like to join me, I know that he and I could both help you because I feel that any Federal Government decision that reduces the value of your property for any public purpose, that there ought to be compensation for that. If my bill passes, then the Forest Service, the BLM, or whatever, must offer you compensation for protecting the spotted owl—in this case—for the lack of thinning or the loss of timber production on your land. So we'll do it that way.

Mrs. OREM. Thank you.

Mr. SMITH. Thank you.

Mr. VOLKMER. I would like to comment to the gentleman from Oregon that it would be Fish and Wildlife that would have to come up with the money. We won't take it out of our budget; we'll take it out of theirs because they do the Endangered Species Act.

In passing, I would like to say that yesterday evening when Mr. Partridge was here—he is the gentleman from DNR—he said that he knew of your situation and didn't say anything more than that, and I dropped it. Maybe I can understand a little bit further than the gentleman from Indiana. Your problem is more with the old-growth trees that you have in there that are in excess of 30 inches. Is that what your problem is?

Mrs. OREM. Yes.

Mr. VOLKMER. And you want to take those damaged or dead trees out, right?

Mrs. OREM. They are huge trees. The bark is off all the way around for 18 to 24 inches on some of them. Those trees are going to die in a few years. They are not going to grow anymore.

Mr. VOLKMER. So you would like to take them out while they're still worth some money.

Mrs. OREM. The appraiser the other day just pointed out that this one and that one were worth at least \$5,000 each.

Mr. VOLKMER. So you would like to take them out, but DNR is going to have to approve, and you don't know whether they're going to approve or not. Your impression is, from a wildlife specialist, that they won't.

Mrs. OREM. They didn't approve it when I applied the first time. Why would they approve it now, except for a little more pressure, perhaps, from Congress?

Mr. VOLKMER. You live in Jolene's district, is that right?

Mrs. OREM. Al Swift.

Mr. VOLKMER. We'll take it up with Al.

Mrs. OREM. He's agreeable.

Mr. VOLKMER. I think you might have a friend in Congressman Swift.

Mr. VOLKMER. With that, if there are no other questions, I thank this panel for being here. I appreciate your testimony and your patience. Thank you very much.

Mr. Kuehne, we will examine your suggestion as far as the long-term solution to this whole problem. I don't know actually how we'll fit it in because, as you said, trees grow at a different pace in different areas, even in the Pacific Northwest.

Mr. KUEHNE. Thank you, Mr. Chairman.

Mr. VOLKMER. Thank you.

Our next panel is Ms. Cheryl Osborne, replacing Valerie Johnson, from the Oregon Lands Coalition in Oregon; Mr. Jerry Rust, Lane County commissioner from Eugene, Oregon; and Mr. Jeff Olsen, director of the Bolle Center, the Wilderness Society, Portland, Oregon. I understand that our final witness was not able to make it today.

Ms. Osborne, you get the opportunity to begin the final panel.

STATEMENT OF CHERYL OSBORNE ON BEHALF OF THE OREGON LANDS COALITION

Ms. OSBORNE. My name is Cheryl Osborne. I am a resident of Oakridge, Oregon, a timber community in the Cascade Mountains, just east of Eugene. I work as a bookkeeper for a small logging firm and I also own and operate a bar and grill. My husband worked in Oakridge for 30 years as a logger and a sawmill worker and now he lives and works in Alaska.

Our last sawmill is presently being dismantled after being sold at auction. Oakridge is surrounded by the Willamette National Forest, but we have no industry. At last count, there are 50 Oakridge men in Alaska. They are all living there and working and their families are still in Oakridge. There is a "for sale" sign in every other front yard in Oakridge and more and more families are breaking up, bankruptcies and foreclosures are on the upswing, and our community is virtually dying.

My community, as well as every other community in western Oregon outside the Portland metropolitan area, has been living in a suspended state of fear, anger, and frustration for over 2 years. While all three branches of our Federal Government have been playing out the ruse of the spotted owl, our communities have been explicitly excluded from the processes. The laws governing forest management were written and now are being administered and interpreted specifically excluding people.

This notion may have seemed necessary in the context of 20 or 30 years ago when it seemed there was little control of development. But today, just the opposite is true. Today, families and communities are the endangered species because there is no provision in the law to take our needs into account.

The contributions of our communities to the American society are many and significant. Our work ethic, our sense of community and patriotism, our heritage and traditions, our skilled workers and our crafts are each a vital part of America. To allow the continued demise of our towns would be more than shameful. We believe it would be criminal.

Community stability is a phrase we detect has not received much respect since Congressman Bob Smith first introduced this bill on our behalf nearly 1 year ago. We are outraged at the lack of consideration current legislative debates gives people and communities. We strongly suggest that community stability should be your first concern and that any resource management decisions made based on other premises are decisions being made in a vacuum.

We support your efforts to manage our resources responsibly. In fact, we would not want to settle for less. But it is our ostrich folly to pretend to be making decisions about resource management without including people and their communities as a primary consideration.

Oregon Lands Coalition is an alliance of volunteers from all over our State uniting ranchers, farmers, miners, millworkers, loggers, and recreationists to work together for a balance of resource protection and resource production. Please do not be fooled by those who want you to forget us.

This appeal is not just for my town of Oakridge, Oregon, or for just Oregon communities. This appeal is for all the thousands of communities across the United States that are the forgotten ones. This appeal is made for the families that raise our food with such high quality and low cost. This appeal is made for the families in the Northwest, the Midwest, and the Southeast that provide building and paper products with the most environmentally sound methods known in the world. And this appeal is made for the families that supply the raw materials for our clothing, furniture, supplies, appliances, and every other commodity enjoyed by Americans.

Don't you feel these communities deserve some stability? Can you come to our towns and explain to our people how you can possibly deny people and communities to be a part of the process? The Government that we believe in, vote for, pay our taxes to, and support surely cannot turn a deaf ear or a cold shoulder to us. We are a vital part of America, contributing more than our share and asking only for fair consideration.

We have received messages from many other organizations across the country supporting the Community Stability Act. Some of the comments are: Georgia Forestry Association supports putting people back into the environmental equation. "We are very much in support of the Community Stability Act;" the Board of Alamosa County—Colorado—Commissioners unanimously supports a Community Stability Act; "Resource-dependent communities in Wyoming and in the West desperately need the protection that the Community Stability Act would provide"—Wyoming Wool Growers Association; "This legislation is needed to protect the jobs of working men and women whose lives depend on natural resources. We strongly support this bill"—International Woodworkers of America, Lady Smith, Wisconsin; and the list goes on and on. I have provided copies to the committee.

The Oregon Legislature is also completing a joint memorial to Congress urging congressional support of the objectives of the Community Stability Act. This memorial has already passed the House 49 to 11 and was unanimously supported by the Senate Trade and Economic Development Committee 7 to 0 last week. We expect passage by the full Senate within the next 2 weeks.

On behalf of the Oregon Lands Coalition and thousands of communities across America, we urge you in the strongest possible terms, to support H.R. 1309, the Community Stability Act of 1991. It is inconceivable to us that you could do any less. We also strongly support the Forest and Families Protection Act of 1991, H.R. 2463, and repeat our total opposition to H.R. 842 and H.R. 1590.

In closing, I will repeat the appeal made to the National Parks and Public Lands Committee on April 25, 1991. Please, bring your committee to the Pacific Northwest and hold hearings in the region that will be impacted in every way by your decision. The very Americans whose lives you are deciding deserve the opportunity to have their say, but your hearing some 3,000 miles away does not provide them with that opportunity. Please schedule your field hearings on these very important proposals at your earliest possible convenience.

Thank you.

[The prepared statement of Ms. Osborne appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you very much.

Commissioner Rust.

STATEMENT OF JERRY RUST, COMMISSIONER, LANE COUNTY, EUGENE, OR

Mr. RUST. Thank you very much, Mr. Chairman. I have also been able to view these proceedings for the last 2 days and I just want to tell you how impressed I am with your stamina and your patience. I think your subcommittee is doing a great service to the Nation. I will take those heart-felt feelings back to my constituents.

Lane County is right in the middle of this timber—I like to say forest—dependent area. In fact, I've lived all my life in Douglas County and in Lane County. I grew up in a small town, which is basically a one-industry town. I am serving now as county commissioner. This is my fourth term. Before that, I worked in the wood

products industry and helped form a rather large corporation that put a couple thousand people to work planting trees, thinning, slash piling, bridge building, forest trails, and the like.

I mention that because I wanted to speak about some possibilities to add to this economic package. I also am a tree farmer and I have some trees. In fact, just last weekend I was through some areas that I had been through some 20 years before and was getting another crop of trees. We don't clearcut, we prune or thin trees when they are about a foot in diameter. Whenever they're close to each other, if you remove one, you can get a lot of growth on your next tree.

We take it as a given—and I haven't heard anything to the contrary here these last days—that the allowable sales quantity is going to fall, and perhaps dramatically. I do think it's important that people get into this equation. That's why I came back here to testify about some job opportunities.

What I looked for were forest-related jobs, jobs in small communities, jobs that perhaps could help repair the environment, jobs that would return an investment back to the Federal Treasury. As you know, counties are partners in this and third party beneficiaries of these revenues, so I think investing in our forests is good in the immediate sense because of the jobs, but it also is about as sure an investment as you can make. Not many Government programs return an investment like the investment in the Pacific Northwest forest can do. I also looked for jobs that would improve the long-term timber supply.

I apologize that I didn't provide a written statement, but I did provide you with some documents that I will refer to from time to time. The first is this spotted owl mitigation plan summary. I have attached a Forest Service briefing paper from May 30, 1989. "The region has \$73.9 million in projects and programs in Oregon that could come on line very quickly if additional funds were made available." At that time, about 2 years ago, they documented 2,500 productive full-time jobs that could be brought on-line if the funding were available. They also note that with the multiplier effect this would add 8,000 jobs.

These are jobs in reforestation, timber stand improvement—which typically means brush control, precommercial thinning. I might tell you that right now the markets out there are so hungry for material that they are buying material down to 1-inch tops. So even these precommercial thinning jobs can give you a lot of return on your investments. Even in the past where in those precommercial thinnings we have let some of those poles fall, I would suggest that some of those materials could come out as merchantable.

There are literally thousands and thousands of acres in the Pacific Northwest that could take up some of the potential for disaster in our forest-dependent communities.

I would like to agree with the former speaker, Mr. Kuehne, in his concept of extended rotation. I think he's on to something. One of the things that we do—and I know the Forest Service has done it on a limited basis—is pruning. By taking the small limbs up maybe 30 feet on a stem you will essentially not only accelerate the potential for canopy, but you will grow value-added material on the

stump. You will essentially duplicate the clear, vertical grain Douglas-fir, which is so highly prized around the world. We can manipulate a stand and get that kind of material in 30, 40, or 50 years out if we do that proper management.

In addition, there is trail work, firebreaks, stream bank rehabilitation, which I think is going to play a role in the coming discussing of salmon.

I also interviewed the BLM and found that they had an additional 500 jobs at that time that they could put in there, so I added those two programs together to get the 3,000 jobs. That's \$100 million. Again, I don't look at it as welfare, but rather investment, an investment that this country should make even if the spotted owl were not part of this issue.

You mentioned special forest products because we are hearing more about that. According to research from Washington State University, this is going to be a \$45 million industry in northern Washington. Typically, this list includes mushroom, truffles, evergreen boughs, ferns, cones, moss, pitch—it all sounds fairly incidental, but in the aggregate when you add it up it's rather large, and it is growing. We have materials in the Pacific Northwest that are in demand year-round, and especially at the holiday season in places like Europe.

There are other medicinal roots and barks and materials like that. I brought along an example of one that has been mentioned several times here today, which is the bark of the Pacific yew tree. This is a rare understory tree. About 25 years ago, it was discovered that it contains taxol, which now they have been through the animal trials and are now in the clinical trials. It is very clear that it stops ovarian cancer to a dramatic extent.

I believe they're going to announce this June, at a national conference with the National Cancer Institute, that lung and breast cancer can also be dramatically impacted. It has gone from a trashweed tree to perhaps the most valuable tree in the forest. I want to refer to the paper in your package in which I tried to outline a comprehensive program for that tree.

To a certain extent, the problem here is that we are making the same mistake that we have made with our old-growth tree. We are on a nonrenewable path. If you wanted to get some apples from your tree, the last thing you would do would be to cut down your tree. That's essentially what we're doing.

I also brought some needles. I wanted to illustrate this point. These needles have about 10 percent to 20 percent of the strength of taxol as the bark. It is unfortunate that the Forest Service, the National Cancer Institute, and the company that has the exclusive monopoly in this area have stayed on the bark and have not moved to the foliage, which would be a renewable crop.

In the Oakridge drainage, there are thousands and thousands of yew trees. Mount Hood has a lot of yew trees. There are people in the Pacific Northwest that could be put to work clipping these on a sustained yield basis and we could deliver the cancer-fighting compound for the medical purposes intended. But on the path that we're on, we're going to run out of that material very quickly in the Pacific Northwest. We will be left with some stumps, and some

place else in the country will benefit from this discovery and the ongoing production of taxol.

I would hope that this committee would make some comment about that. I have also begun working with the other members of the Oregon delegation and another committee to take this matter up, but it seems to me that while we are looking at sustainable jobs, this is something that we could do in a hurry. I estimate that we could put at least 1,000 people to work basically on a full-time year-round basis—when you could get into the woods—clipping these materials.

I should also suggest something else about these ancient forests. There are some very interesting and valuable materials out there that we are just beginning to understand.

Let me just conclude by saying that every community is after clean industry. You won't find any cleaner industry, any cleaner jobs, and better jobs than the ones I have outlined. It is great work out there. Again, I think if we could frame this in terms of an investment, this could form the backbone of part of that economic package that could mitigate some of the economic stress out there, and you will have made life in forest-dependent communities a lot better.

Thank you very much.

[The documents submitted by Mr. Rust appear at the conclusion of the hearing.]

Mr. VOLKMER. Thank you very much.

Mr. Olson.

STATEMENT OF JEFFREY T. OLSON, DIRECTOR AND RESOURCE ECONOMIST, ARNOLD BOLLE CENTER FOR SUSTAINABLE FORESTS, WILDERNESS SOCIETY

Mr. OLSON. Mr. Chairman, thank you for the opportunity to testify here today. I am Jeff Olson, a resource economist and director of the Arnold Bolle Center for Sustainable Forests with the Wilderness Society.

The Wilderness Society is concerned about the future of the Pacific Northwest economy and its environment. With respect to the economy in the Pacific Northwest, the issue is more than timber. Rather, that issue includes how to manage the ongoing transition to an increasingly diversified economy that is more urban and less rural in nature.

For the timber industry, it is a question of how to manage the transition from a second-growth timber economy. My prepared statement is in the record and I will briefly summarize from that statement.

In the past, logging has been the backbone of the economic base in the Pacific Northwest, but in recent years, the dominance of the forest products industry has given way because the region's economy grew and diversified and shifted from a rural economy to an urban economy. While all the major industrial sectors have grown and rebounded from the recession of the early 1980's, the timber industry has proven to be the lone exception to that trend.

The industry itself is in a transition. Its share of the region's economic activity has virtually been cut in half in the past 20 years.

As the South emerged as a more competitive industry, the Pacific Northwest has restructured. Some of that restructuring is illustrated by just reviewing some of the changes in the manufacturing capacity in the Pacific Northwest.

If you look at the Nation's seven largest producers of lumber and wood products, on the west side of the Pacific Northwest, they have reduced their plant capacity by some 30 percent, while at the same time increasing their capacity in the South by more than 120 percent.

The transition is also not limited to the timber industry. The entire region continues to be in the midst of an economic and demographic transformation. Today the Pacific Northwest is predominantly urban, while 10 years ago the population in the Pacific Northwest was distributed fairly evenly between rural and urban areas. With the rise of urban centers, dependence on the timber industry for economic growth has declined, and Portland and Seattle and other urban areas have thrived during the years of the 1980's.

At the same time as that has occurred, the rural communities—such as Oakridge, Oregon, and Aberdeen, Washington, and so forth—have not shared in that economic recovery.

One of the earliest voices warning of the industry's transition was George Weyerhaeuser when he said to company employees that: "The industry has changed in fundamental and permanent ways. A set of economic factors both within and beyond the industry has combined to transform both the lumber and log markets." He went on to say that: "The harsh reality is that the competitive environment within the forest products industry has changed dramatically and permanently since the 1980's. Forest products companies both big and small must learn to play by a new set of rules if they are going to survive."

Since emerging from the recession of 1981 and 1982, the industry in the Pacific Northwest has become leaner and more efficient. In the process of doing that, some 26,000 timber jobs have disappeared. As wood products—that is lumber and plywood—have increased by 12 percent, the volume of timber cut in the region increased 7 percent.

In 1979, the average mill in the Pacific Northwest needed 4.5 workers to make 1 million board feet of lumber. In 1990, fewer than three workers are needed to make the same amount of lumber. That suggests that the industry is becoming more efficient, something that the industry must do to continue to compete with its competitors both in the South and with Canada, and really international as well.

We've also heard a number of estimates and claims that saving the last fragments of the remaining ancient forests would mean economic devastation to the region. Estimates of enormous job losses are regularly touted by lobbyists and industry leaders and others. However, more credible job impact estimates suggest that over the next 20 years some 33,600 jobs due to improvements in labor productivity alone. According to my analysis, an additional 8,900 direct forest industry jobs may be lost if the Thomas Committee report were implemented in full.

At the same time, 160,000 new jobs were created in Oregon and Washington last year. That trend is continuing.

Timber workers have also been hard-hit by the industry's decade-long growth in log exports. Today, the United States is both the world's largest exporter of raw logs and the world's largest importer of finished wood products. Trimming log exports could save the equivalent number of forest industry jobs that might be lost if ancient forests were protected.

Turning to the timber communities, the problems facing timber-dependent communities cannot be addressed piecemeal. A comprehensive program will be one in which different economic programs and plans will be interrelated and interdependent. Tax incentives for millowners, for example, would be ineffective in the absence of substantive programs addressing worker retraining, log exports, forestry research, and other issues.

These communities need real resources brought to bear on a problem that is a function of declining supplies of old-growth timber and higher costs of processing the smaller diameter second-growth timber that has come to dominate timber supplies in the Pacific Northwest. It is also a problem that is exacerbated by the maturity of the industry itself and the markets in which the industry is competing.

The impact of forest protection, Federal environmental laws, and litigation to date has really not been felt. What is needed now is an explicit transition strategy calculated to exploit any and every advantage and opportunity to create sustainable economic development, help communities function more efficiently, and establish a permanent link between economic health and environmental protection.

The Wilderness Society has in the past listed a variety of ideas as to how to accomplish that. I will briefly touch on that here.

The first would be job retention. We need to find ways to avoid losing more jobs in rural communities. In fact, to avoid losing jobs in any community. Job retention is an opportunity that can provide immediate relief to rural communities.

Log export controls—a log export tariff perhaps would be a means of controlling log exports to generate increased domestic timber supplies. Low-cost loans and incentives could be used to encourage the timber industry to take additional risk, reinvest in secondary manufacturing, and invest in new products that could be marketed to Pacific rim countries.

Investments in land stewardship and new forestry—as Jerry pointed out earlier—that has tremendous opportunities for employment in land stewardship. Improving forest management on private lands, education, and technical assistance, adjusting payment to counties—all of these are opportunities.

A logical question is, Who is going to pick up the tab for these programs, many of which will require significant funding over both the long and the short term? Timber receipts is probably the worst place to look. We are already losing money on timber sales on nearly two-thirds of the national forests of this country. We don't need any more negative incentives to sell more trees at a loss. There are numerous options that deserve further exploration and analysis. Funding will necessarily have to come from a variety of sources, and not a single source.

These are the kind of ideas that must be considered if the region is to achieve both a sustainable economy and ancient forest protection. Our focus must shift to maximizing the variety of roles that forests should play in the region's future economy. The Wilderness Society acknowledges that timber is a part of the region's future, but it is only one part. Neither the industry nor the Pacific Northwest basin economic crisis—but the issue facing Congress and the region is how to make the economic transition that would be occurring regardless of the northern spotted owl occur in a way that protects both the forests and jobs.

The bottom line is clear. What is at stake here is no less than the fate of a world class treasure—our last remaining ancient forests, with the associated rare plants and animal life. Once cut down, those ancient forests are gone forever.

If I may, I would like to respond to a point raised earlier by Mark Rey regarding certainty. If we look the job losses over the last 10 years—and those losses have occurred largely due to automation, increased labor productivity, and to some degree log exporting—those job losses amount to more than twice the number of job losses that BLM and the Forest Service predicted would result if the interagency spotted owl Commission plan were implemented. Clearly, maintaining timber supply does not maintain jobs at current levels.

Thank you.

[The prepared statement of Mr. Olson appears at the conclusion of the hearing.]

Mr. VOLKMER. Thank you, Mr. Olson.

The gentleman from Washington.

Mr. MORRISON. Mr. Olson, I appreciate your testimony, but I am tempted to buy you a ticket to Oakridge to try to get you down out of your ivory tower.

Commissioner Rust, some of your ideas are marvelous, and I know you've been a leader in this area. A lot of us have looked at some of those ideas in the past. Did you include in your list recreational facilities rebuilt? We're looking at a lot of facilities built by the CCC and the WPA a number of years ago.

Mr. RUST. Congressman Morrison, I didn't. I would like to indicate that this is kind of a working process. I do think you raise a good point. As a matter of fact, we use some of the road funds that come from our timber revenues and are with the city of Oakridge building a rest stop up there that is eligible for a road fund expenditure because it serves the traveling public. I very much support that concept.

I think Oregon and Washington and northern California also have hundreds, and maybe thousands of miles of trails, some of which have almost been forgotten or grown over. I think there is a wealth of opportunity there.

I am aware that the Congress is pinched for funds, so I tried to build my primary job program around things that would have a return on investment in order that you could perhaps use that as a selling point with the rest of the members, but I do support recreational investment. Recreational tourism has become the No. 2 industry—as I understand it—in the Pacific Northwest.

Mr. MORRISON. Some of us are very concerned that as we looked at just the Forest Service stewardship over recreational land, that they have three times the base of our National Park System, and yet get just a pittance as far as recreational investment is concerned.

I think you have an excellent idea. The people in my district that I have talked to about retraining and leaving their version of Oakridge—they don't want to do it. This is something that really turns them on, the potential of the variety of options that you have mentioned.

Cheryl, I have just one question. What has happened with all these houses for sale? What has happened to land values?

Ms. OSBORNE. They have dropped drastically. People can't move because they can't get the money out of their house to relocate in a new area, so they are stuck with a house with a mortgage, and it is terrible. I have heard a lot of facts and figures here today, and everybody has different figures. You have the best idea. Come to Oakridge and see for yourself. There is economic disaster.

Our new rest area is going in the city limits where people will stop at the rest area instead of our businesses, so that is not something we are looking forward to either.

Mr. MORRISON. I hope it's not too far from your bar and grill.

Ms. OSBORNE. Mine is off the highway so I have to have local customers.

Mr. MORRISON. I would mention to you that with the support of all of us on this subcommittee, in fact the full Agriculture Committee, we do have in last year's farm bill a program for timber dependent community. Mr. Smith's proposal, which you have given a great boost to, goes beyond that. Of course, we're making an effort now to get funding. Potentially, that can help, but I think there is no way you really replace that good consistent job that many of us would support.

I appreciate the input from this panel. It adds a dimension that is important to us as we look at the overall issues that we have to resolve.

Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from Indiana.

Mr. JONTZ. Thank you, Mr. Chairman.

Commissioner Rust, you are not in an ivory tower. You are an elected local official of the biggest timber producing county in the country.

Mr. RUST. Douglas County might dispute that, but we receive—between the ONC and the Federal Forest Service receipts, we are No. 1.

Mr. JONTZ. You are No. 1, so you are in the heart of it.

Let's go through this list from the Wilderness Society. Adjusting payments to counties, education and technical assistance, improving forest management on private lands, including preferential tax rate for long-term capital gains income from timber sales, restoration of damaged forest ecosystems, construction of recreational facilities, trail and stream improvements under land stewardship, low-cost loans and tax incentives to encourage companies to reinvest in secondary manufacturing capacity of your new products, in dealing with the log export problem job retention—do you think

that those are items that we ought to be pursuing? Which of those do you think are realistic, and which do you think are not?

Mr. RUST. It's a good list. It ought to go in with a number of other lists that are starting to emerge, and then they all ought to be evaluated on their merits. The chairman has already said today that you don't have jurisdiction on exports. That would take 1 year or 2. There is a lot of politics there, so cross that off the immediate list. I am looking at things we can do quickly and immediately to bring some relief.

We're convinced that the allowable sale quantity is coming down. Personally, I think it should come down. We have overharvested our lands, and we have taken too much out of the bank account and now we have to put something back.

I wouldn't summarily dismiss any of these ideas without a thorough evaluation. I didn't mention training because, as I said, I had limited time to address that, but let me just say something about training.

Mr. JONTZ. Sure.

Mr. RUST. What we have found—the way that training program works through our community college is that people come in—and I know a lot of people from Oakridge have come down to Eugene to the community college. They do a job skills assessment typically. Then there may be 2 years worth of training. I am told by our job training people that displaced timber workers have 3.0 averages and better. They are some of the most competitive students that come out of that community college. I have seen a long list of jobs that people have retrained for.

Mr. JONTZ. And they have been able to find some jobs?

Mr. RUST. They have been able to find some jobs. Oregon's economy is growing faster than the rest of the country right now.

Mr. JONTZ. And some of them are able to live in the communities, or do most of them have to move, or can you generalize?

Mr. RUST. I think that there is a lot of commuting going on.

I don't dispute what the party from Oakridge has said. I think she paints a fairly true picture of what is going on. The fact is that Oakridge is in the middle of a paradise. There is a confluence of rivers and national forests. The homes are for sale at buyer's sale prices. There is a lot of distress up there and we are worried about it. I do think that the list that has been mentioned here is not a bad list. It deserves some scrutiny.

Mr. JONTZ. So the fact that it came from the Wilderness Society, per se, doesn't mean that those ideas don't have some merit?

Mr. RUST. It doesn't scare me.

Mr. JONTZ. OK.

Mr. RUST. I guess that was a little impertinent. Each of these items ought to be evaluated based on their merit and given an evaluation. I know funding is part of the problem. Again, what I was trying to do is to get a jump start and try to make a case for investment.

Mr. JONTZ. I think everyone here would agree with that. I don't think you find any disagreement here.

Mr. Olson, we have heard some discussion this afternoon that all the mills have become as productive as they can, or at least the idea that there are going to be further job losses because of in-

creases in productivity is a mistaken notion. Defend your position that further increases in productivity will occur. How do you know that we haven't reached a plateau in the number of person hours of labor that goes into manufacturing the product that is produced by the industry in the Pacific Northwest?

Mr. OLSON. In the long run, in order to continue to compete in the marketplace, the industry will have to continue to improve its productivity. In the long run, the Nation's productivity increases over time. When it slows down, we have a problem economically.

The numbers that I have used in evaluating long-term productivity are consistent with estimates developed by the Forest Service and by researchers at the University of Georgia. So they are consistent with the work done by a number of researchers.

Mr. JONTZ. Are these national figures or regional figures?

Mr. OLSON. In the Pacific Northwest we are using regional figures and applying it specifically to the three basic sectors, which are logging, sawmill, and plywood manufacturers.

Mr. JONTZ. Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from Oregon.

Mr. SMITH. Thank you, Mr. Chairman.

Cheryl, I want to thank you for sacrificing your time, effort, and money to come back here and testify. I appreciate that for all the people that you do represent.

Tell me, how many people are there in the Oregon Lands Coalition? What is the membership?

Ms. OSBORNE. We represent 72,000 members.

Mr. SMITH. Obviously under some duress or they wouldn't be colating around this issue.

Ms. OSBORNE. That's right.

Mr. SMITH. I appreciate that. That's quite a few and they represent a lot of those small communities that you speak about. I have invited this group to Burns as well as Oakridge, which would have a similar impact on them, I'm sure.

Jerry, I appreciate your thoughts in trying to replace some jobs from the timber industry. We continually worry that somehow this is a substitution. In reflection of that substitution, I researched the fact that 21 percent of the budget of Lane County comes from forest receipts, I am puzzled to know how if we lose the timber resource how job replacement is going to replace those moneys for the county.

Mr. RUST. Mr. Chairman and Representative Smith, that is a big concern. You know that western Oregon counties have a special problem because we have had a really great ride on the ONC railroad lands for some time.

Lane County operates with a 1919 tax base in its general fund area. We have seen some ups and downs. Since my term in office, we were at \$8 million 1 year from our ONC. We were up to \$24 million another year. I think we're looking at possibly \$18 million this year.

Mr. SMITH. You're going to have to increase taxes, then.

Mr. RUST. There is no question about it.

I looked at what Prince George County, Virginia did this morning, and it looks like \$208 per each landowner in that county. It looks like a similar fate is going to be coming to our taxpayers.

I will tell you this, that where U.S. Forest Service moneys are concerned, which is the jurisdiction of this committee, of course, I will advocate to you and I will stand up and advocate to my constituents that exercising a local option to raise the gas tax would be an appropriate response since those moneys are used for roads. It's not easy to say that, but I would not only say that we probably will have to, I would be one of those to please half in my county and displease half—

Mr. SMITH. I guess it might be more like 100 percent when you start increasing taxes.

Mr. RUST. No, we're divided down the middle on that.

What I'm saying is that I think half the people in my county would say they would pay higher taxes in order to retain some of that magnificent ancient forests. So taxes are the bottom line.

Mr. SMITH. I'm behind you. I'm still trying to realize a reasonable harvest out there and take care of all these other Federal laws. I am behind you in the loop. I would still like for those from Alaska to come back to Oakridge and go to work.

You raised the yew tree issue. I would recommend on the way home that you talk to Mr. Olsen. In the spring of this year the Environmental Defense Fund and the Natural Resources Defense Council ask that the yew tree be an endangered species. It was denied by Mr. Lujan because they found that there were lots of yew trees. But we all have seen the significance of the yew tree and the possibilities of it. But the same folks that are suggesting that seem to be trying to put it out of reach of harvest.

By the way, there is just a note here that now they are stealing yew tree bark in your country, some 500 pounds of it—of all things—worth about \$1,100 dollars. They are stripping yew trees in the forest. So if you're going to be on the same plane, you might get on the same level of discussion.

I know that you had a critical habitat hearing out there recently, and the report said, "Rust was greeted with cat calls for suggesting that jobs collecting Pacific yew bark for the cancer drug taxol to take the place of logging jobs within owl habitat." The folks at home didn't like that.

Mr. RUST. Mr. Chairman, there were 600 people at the hearing. I was one of two people who advocated for a different point of view, and I found it rather disturbing, unlike at this hearing, I was not able to complete my testimony without being interrupted.

Mr. SMITH. Really? You mean they shut you down?

Mr. RUST. No, they didn't shut me down because I felt as an American citizen that I had a right to get on the record with the U.S. Government, who was holding that hearing.

I understand that people are at the flash point out there, and people hold rallies before those hearings, and people get worked up to an emotional frenzy. But at any rate, with respect to the yew, I didn't just mention the yew issue. I tried to go through the same list that I went through to this committee, and again I was trying to offer something positive. A lot of times those kind of comments are not being interjected into these proceedings. We hear a lot of problems, but where are the solutions? I thought I would be positive.

As far as the yew is concerned, you are right that it was dismissed from that petition by the Secretary of Interior. But I will say this. To this day, we are going to eliminate most of the mature yew trees in the next couple of years, and we don't have to do that. There is a better way. We could go to—what is wrong with this? The company would have to handle about five times as much biomass, and that would be more expensive, but it would also be renewable and it would also provide some jobs. Right now we are wasting one-third of the only taxol resources on Earth, and we have 12,000 women dying each year of ovarian cancer, and 1 million victims nationwide.

Mr. SMITH. Jerry, you may know also that normally they sell 16 sales a year—have sold 14—they have made 2 sales this year because 14 of them have been tied up under appeals because of the yew tree. So we can't have it both ways. I was just there 2 weeks ago.

Mr. RUST. I would like to know more about that. I was not aware of that.

Mr. SMITH. It's near Tiller, which is down in the southern part of the State in Douglas County. We're all mixed up here. We have to have the yew tree, and the same people that say that, say you can't harvest it. You tie up the timber sales and everything else and people move to Alaska. It's a mess, isn't it?

Mr. RUST. I came 3,000 miles to be part of the solution. Again, I probably have more hope in the intelligence of this committee fashioning the various pieces of this puzzle together than I have had in some time, and I feel good about that.

Mr. SMITH. Thank you, Mr. Chairman.

Mr. VOLKMER. The gentleman from Oregon.

Mr. KOPETSKI. Thank you, Mr. Chairman.

I certainly want to welcome our fellow Oregonians to Washington, DC. There is an inverse correlation between the temperature of this room and what is going on outside, but it is more similar to the temperature of Oregon in this room than what is outside.

The issue before us is a very hot one, of course. I think as we conclude these 2 days of testimony that we have a lot of food for thought, and I think we've seen a lot of windows open on everybody's part. We are all willing to compromise a little bit and fashion a program that Congress can adopt, and hopefully we can sell it to the entire Congress. It is very difficult when you start off with the chairman of the committee opposed to bills that are introduced, the President is opposed to bills that are introduced, and yet everybody is saying that we have to do something. I am very optimistic that something will happen in a positive light.

One of the critical areas—and I've talked about this in the last day or two—is the sufficiency language that we can't run over existing policies and statutes in the U.S. Code. We have to have a harvest level in the transition period as we look toward a long-term solution.

With that, I would like to hear from Ms. Osborne, do you have any thoughts on—first, I'm assuming that Oregon Lands Coalition, by your support of H.R. 2463, that you are now on record in support of some sort of old-growth forest reserve system or designation.

Ms. OSBORNE. I don't understand your question.

Mr. KOPETSKI. Mr. Huckaby's bill, H.R. 2463, allows for the creation of a new designation of forest lands. I think they might even call it ancient forest reserve lands.

Ms. OSBORNE. Right.

Mr. KOPETSKI. We would designate lands in this fashion.

I am assuming that Oregon Lands Coalition, by their endorsement of the bill, is now endorsing this idea as well.

Ms. OSBORNE. Right.

Mr. KOPETSKI. That is a very major step for the Oregon Lands Coalition. We had the administration in yesterday, and they are going along with this idea, too. That's what I'm talking about. There is significant progress being made.

So my question is: Have you had thoughts of discussion in terms of your own ranger districts about harvest levels that you might be able to get by with?

Ms. OSBORNE. We have the Oakridge and Rigden ranger districts. They are the biggest districts in the whole United States with standing timber.

Mr. KOPETSKI. I don't know those boundaries. Roughly, could you describe them?

Ms. OSBORNE. Oakridge and Rigden?

Mr. KOPETSKI. Yes.

Ms. OSBORNE. They encompass Oakridge, but any way you look, it is national forests. We have more standing timber on those two districts.

Mr. KOPETSKI. So it is Lane County?

Ms. OSBORNE. Yes.

Mr. KOPETSKI. Thank you.

Ms. OSBORNE. The old growth isn't that good for sawwood anyway. We have been shut down lately in second-growth timber because we are adjacent to old growth. So it is not just affecting the old growth.

I work for a logging company and in the last 3 months we have had to move three times because of the spotted owl, and we weren't in old growth. It is very expensive, and just moving one piece of equipment costs \$2,000. When you get all rigged up to log and then have to leave in 2 weeks, we incur that expense.

Mr. KOPETSKI. Were these public land sales or were they private?

Ms. OSBORNE. Public. One was a low ranger district and the other was Oakridge.

This is happening repeatedly. So it isn't just the old growth that we're being shut out of.

I also resent being told that we're not going to have any more rural communities and that we're all going to have to be urbanized. That's not where I want to raise my children.

Mr. KOPETSKI. I don't think that's going to happen. We definitely don't want it to happen, and I don't think it's going to happen either.

Mr. Olson, I certainly want to thank you for coming out here as well.

I know our time is running out, and I just want to give each of you a last moment, if you have any comments on anything you might have heard in the testimony before the committee.

Mr. OLSON. I have none at this time, no.

Mr. KOPETSKI. Commissioner.

Mr. RUST. All I can say is that I wish I knew that I was going to get that question, but I don't. I feel very satisfied that I was able to put these remarks on the record. I want to thank the subcommittee again.

Mr. KOPETSKI. Thank you all for coming.

Mr. VOLKMER. Ms. Osborne, how many acres of private timber lands are within the area of Oakridge?

Ms. OSBORNE. I don't have that figure.

Mr. VOLKMER. Are there any?

Ms. OSBORNE. Yes, in High Prairie there is some.

Mr. VOLKMER. Is that available to the mill?

Ms. OSBORNE. No.

Mr. VOLKMER. In other words, somebody else owns that and they use it for their own mill?

Ms. OSBORNE. It's standing timber. They are not harvesting it.

Mr. VOLKMER. So the only available timber to that mill is from the public lands, the national forests?

Ms. OSBORNE. That's right. We are surrounded by it.

Mr. VOLKMER. Why did the mill close?

Ms. OSBORNE. Lack of affordable timber. It was a big mill.

Mr. VOLKMER. How many people did it employ?

Ms. OSBORNE. Pope and Talbot employed 500 people. They sold in 1989 to Bald Knob, which employed 250, and then they just auctioned off that mill in February.

Mr. VOLKMER. You said something about having a secondary growth but that you couldn't get into secondary growth because it was close to owl habitat.

Ms. OSBORNE. That's right.

Mr. VOLKMER. Do you attribute your lack of getting logs in to the environmental situation that has occurred there?

Ms. OSBORNE. Lately, yes. One haul route we couldn't use because the trucks couldn't use their Jake brake because there was an osprey nest near the road.

Mr. VOLKMER. In other words, it's a combination of things is what you're telling me. I hear from Mr. Olson that we're losing jobs out there because of modernization and efficiencies. That isn't what you're telling me.

Ms. OSBORNE. No, we have no mill. As of today, they are moving the last boards out of there. It is dismantled.

Mr. VOLKMER. What other industry do you have in Oakridge?

Ms. OSBORNE. We have none. We have the Forest Service, but I don't think you would call that industry.

Mr. VOLKMER. No other industry?

Ms. OSBORNE. There is no other industry.

Mr. VOLKMER. No other facility?

Ms. OSBORNE. The businesses, the schools, the Forest Service, and my bar.

Mr. VOLKMER. And that's what you have existing there at the present time?

Ms. OSBORNE. Yes.

Mr. VOLKMER. Without the jobs there, what is there for people to do? If they don't work at your bar and grill, they don't work in the

school, they don't work in the grocery store or whatever else you have, what else is there for them to do?

Ms. OSBORNE. There is nothing for them to do. Lots of people were cutting firewood up until this last winter, and now there is hardly any firewood cutting.

Mr. VOLKMER. The gentleman sitting next to you has recommended that we figure out a way to do job retention.

Ms. OSBORNE. What is there to retain?

Mr. VOLKMER. That's what I'm asking you.

Ms. OSBORNE. There is nothing to retain. I wrote that down. I thought that was interesting, too. We have nothing to retain. It is gone.

Mr. VOLKMER. And that is happening elsewhere. I had a hearing out in Olympia, Washington, last summer. On the Olympic, it was already happening there. In fact, one of the communities was closing their school. A young lady had taught there testified, and they were going to have to leave.

Ms. OSBORNE. As long as the California.

Mr. VOLKMER. She broke down crying. I was just wondering how long you were going to last.

Ms. OSBORNE. It's not the rallies that bring out all that emotion. It is people losing their homes, their cars—

Mr. VOLKMER. What you're telling me is that a log export tariff on exported logs from private lands would not help Oakridge, would it?

Ms. OSBORNE. No.

Mr. VOLKMER. Low-cost loans and tax incentives are not going to help you.

Ms. OSBORNE. No.

Mr. VOLKMER. When people go into debt, how are they going to pay it back?

Ms. OSBORNE. That's right.

Mr. VOLKMER. Tax incentives to produce more logs from private lands doesn't help you.

Ms. OSBORNE. No.

Mr. VOLKMER. Land stewardship and new forestry. How does that help you? Investment in research and new management practices can generate potentially long-term economic and environmental benefits for the region. There is a tremendous need for restoration of damaged forest ecosystems, construction of recreational facilities, and trail and stream improvements.

Ms. OSBORNE. We have lots of trails.

Mr. VOLKMER. You have trails already?

Ms. OSBORNE. Lots of trails.

Mr. VOLKMER. Improve forest management on private lands. That doesn't help you any, does it?

Ms. OSBORNE. No.

Mr. VOLKMER. Education and technical assistance, the ability of a timber-dependent community to adapt to changing economic circumstances will hinge on the quality of its education system and ability to implement new employment and entrepreneurial programs. Leadership management and new business programs are often in short supply in rural areas. I agree with that last sentence, though I don't know about leadership.

What it infers here, I assume, is that your education system isn't very good, that you haven't been able to figure a way out of this.

Ms. OSBORNE. Our education system?

Mr. VOLKMER. Yes.

Ms. OSBORNE. My daughter is at BYU, and she started school in Oakridge as a kindergartner. I think we have an excellent education system, but it's going—

Mr. VOLKMER. How about if we adjust the payment to the county—

Ms. OSBORNE. That's just what we need.

Mr. VOLKMER. That's going to help you to—

Ms. OSBORNE. You bet. We can't even pay our property taxes now.

Mr. VOLKMER. Mr. Olson, you mention these things, and I find things in here that are going to cost money. You mentioned back here some ways to get the money. I would like for you—not now but you can give it to me—I want to know how much you estimate you're going to get from taxes on log exports, a virgin materials tax on building materials and paper products, outdoor recreation equipment—and why you're taxing that—I don't know why my son who buys a baseball bat should have to pay because that wood doesn't come from the Pacific Northwest, but that comes from hardwood, or a glove, or a fishing rod—or a royalty on taxol from the Pacific yew. I want to know your estimates based on what revenues you anticipate getting from those.

Are you able to do that?

Mr. OLSON. I will give it a try.

Mr. VOLKMER. You're suggesting—it's a generality. I recognize it as that. I also recognize that as a generality, I don't believe it's a solution.

Mr. OLSON. They are included as ideas. None of these are included as the solution to the whole problem.

I think earlier in my testimony I stated that what is required is a combination of effort that would pull from a variety of these things including low-cost loans and tax incentives to encourage the industry to reinvest or invest in new facilities to create jobs in places like Oakridge, to invest in secondary manufacturing facilities.

Mr. VOLKMER. If you don't have the wood, what are you going to make it out of? I don't care if you're going to—what is secondary if you don't have the wood?

Mr. OLSON. The Pacific Northwest continues to produce on the order of one-third of the lumber and wood products produced in this country.

Mr. VOLKMER. It will not. You're not going to produce what you produced last year or the year before under any of these bills. I will tell you right now that you're not going to produce even half of what was harvested out there in 1989 and 1990. It's not going to happen. It is done and over.

Mr. OLSON. I think there are other projections that would disagree with that.

Mr. VOLKMER. Yesterday we had the experts up, and the experts said that we're going to start selling 1.3. We have now in the pipe-

line about 5.7 under contract. Last year, we harvested 5.2. The year before it was 5.0.

Mr. OLSON. I believe you're referring to the Federal lands only. Is that correct?

Mr. VOLKMER. That is correct.

Mr. OLSON. In total, the region produces substantially more than that, and we have to vector in the total timber supply in order to understand how much lumber and wood products would be produced. I would be happy to provide those estimates under a variety of timber supply scenarios for you.

Mr. VOLKMER. Right.

As a result of all this, you didn't mention in here what has happened already to timber prices in the Pacific Northwest.

Mr. OLSON. No, I did not.

Mr. VOLKMER. What has happened?

Mr. OLSON. They have risen.

Mr. VOLKMER. Is it 30 percent?

Mr. OLSON. It depends on the base you select. If we compare them to 1979, for example, 1980, and 1981, prior to the crash, they are about the same price currently.

Mr. VOLKMER. Commissioner, I appreciate your suggestions, but again, some of those suggestions are going to cost money. You don't build trails for free. Do you understand that?

Mr. RUST. That's right.

Mr. VOLKMER. You don't go in and take care of a forest or do anything for free, correct?

Mr. RUST. That's right. Mr. Morrison asked me about the trail, and I suggested that I thought that was a good idea, but again I built my testimony around jobs that I thought could be viewed as an investment that would return money back to the Treasury.

Mr. VOLKMER. I agree with that, and I don't disagree, and we'll look at them, but the whole problem we're faced with—

Mr. RUST. Cash flow, front-end investment dollars now is a problem.

Mr. VOLKMER. That's right, because we don't have them.

Mr. RUST. There is no question about that.

Mr. VOLKMER. The budget chairman has told us that—when Assistant Secretary Beuter testified here yesterday he was right when he said that he has to do a pay-as-you-go. So anything we put in here, we also have to put in how we're going to pay for it.

Another interesting thing—Mr. Olson, I don't think you've thought of this or your people have thought of this—in order to reduce the revenues from reducing the amount of cuts on the forest lands, you're going to cost money to the Federal Government by doing that. You have to come up with the money to pay for it before you can get the bill on the floor under pay-as-you-go.

But if you're going to set aside lands as ancient forests and reduce the cash flow to the Federal Government from those national forests—say of \$300 million, \$200 million, or \$100 million, whatever it is—somebody has to come up with a way to pay for that.

Mr. OLSON. Certainly we could turn to the below-cost timber sales problem, where 75 percent of the national forests are selling timber chronically below-cost, and save money there.

Mr. VOLKMER. If you're saying that we're going to reduce the timber sales from other national forests—

Mr. OLSON. Those that are chronically below-cost—in other words, the Government loses money by offering those trees for sale—it stands to reason that the Government could save money by not offering that timber for sale.

Mr. VOLKMER. We have yet to find out exactly how much money we're going to save because earlier, in our below-cost hearings, I asked the Forest Service—and I still haven't received that yet and am still waiting for it—because even if you don't cut a tree on a national forest, like the Mark Twain National Forest in Missouri, you still have expenses.

Mr. OLSON. That's correct.

Mr. VOLKMER. Those expenses are there. Is that correct?

Mr. OLSON. That's correct.

Mr. VOLKMER. So actually I have an outgo no matter what?

Mr. OLSON. Yes.

Mr. RUST. I was going to say—I'm not an expert at all on your budget, but I have heard about the road issue. I just simply think that you might want to examine those roads, now given this new set of circumstances.

The other thing that I am interested in is that I think a lot of Federal employees are kind of worried right now. The Forest Service employees in the various areas in the Pacific Northwest—

Mr. VOLKMER. You can understand that, can't you?

Mr. RUST. Yes, because now we're moving our program from timber to something less than what it has been, and I guess those folks are part of this timber dependent phenomenon, and the re-training and how they get helped along I think is an important part of this equation also. They live in our communities, and generally they are local people. They are Federal employees.

Mr. VOLKMER. Wouldn't you suspect that if we reduce the harvest from the national forest by 50 percent that we would reduce the workforce, or do you think we would keep the same workforce going?

Mr. RUST. No, I think you do. I think you make a shift. You make a strategic plan and you mitigate those problems as best you can. That's what I tried to indicate in my testimony. I think the same applies to the Federal employees in the same circumstances.

Mr. VOLKMER. Mr. Jontz.

Mr. JONTZ. Mr. Chairman, I just want to thank this panel for coming to us with some suggestions. It seems to me that we in the Congress have a choice. If one wishes to view this issue in gloomy terms, there is no shortage of gloom. We can look at the budget situation, and we recognize that funds aren't easy to come by. We can look at the biology, and yes we can find some confusion among scientists about how to craft a conservation plan for the spotted owl. We can look at the situation facing the community that Ms. Osborne comes from, and others, and we can find lots of reasons to be upset by what is happening.

We can spend a lot of time debating what the causes of all this are, whether it's the failure of the agency to follow the law, or whether it is environmental extremism, or whatever it is. If we

wish to view this situation only in terms of despair, hopelessness, and darkness, we certainly can do that.

On the other hand, I think that this panel and others that have come to us in the last couple of days in sober reflection on the situation we face recognize that we do have some choices ahead of us. We do have 40 million acres of timber base in the Pacific Northwest, the most productive in the world. We're arguing now over about 1.7 million acres of that, 1.7 million acres of protected ancient forest. It's important, but it is not the only place that you can grow a tree in the Pacific Northwest.

We do have some choices in terms of how we can design short-term and long-term programs to address human needs and environmental needs that exist in that region and nationally. We do have some choices when it comes to investing in the sort of things that Mr. Rust has spoken about where we can put people to work in restoration of the productive capacity of the area and recognize other assets that the area has, the other products that come from the forest, the very attractive environment that the ancient forests create in the Pacific Northwest that make tourism such an important industry.

I have every confidence that this committee and our colleagues in the Congress, in spite of the difficulties involved in crafting legislation that brings about a proper balance, we will recognize that the interests of no one will be served by denying problems. The interests of no one will be served by continuing to put Band-Aids on this problem or by believing that we can continue some of the practices in the past that we now recognize we were not on as firm a foundation as we had hoped in terms of our undertaking them.

Mr. Rust is not removed from the situation. He is right there in the middle of it. He is a county commissioner. He says that the harvest has been too high, that the harvest is going down and that we have some choices in terms of how we respond to that.

I think the message that these panelists have brought to us are a good note on which to end because I think they give us encouragement in the Congress to craft the best solution we can. Virtually all the witnesses we have heard in the last couple of days have now reached the point of agreeing that we do need legislation. A year ago, I couldn't convince anybody of that. A year ago, I couldn't get anybody to sit down and talk to me about it.

Maybe it wasn't the right time to sit down and talk about it, but I think we have reached that point in just about everybody's mind. I, for one, am one member of this committee that appreciates your role in conducting these hearings and getting all this information on the record. We do have a very complete record to work from. I want to say thanks to you and my colleagues on the committee and to the witnesses—not just this panel, but the others that have come before—because they have given us a lot of ideas to work with.

I am one member that is ready to go to work. I don't know that we're going to find any perfect solution. If there was one thing that could solve our problem—if it was job retraining, or exports, or any one thing, or changing the National Forest Management Act—if any one thing would solve the situation, I think we would have done it by now. I don't think there is any one thing. I think there

may be some packages that together we can put into law and then properly fund by some means to address this problem.

I am one committee member, Mr. Chairman, who is ready to work with you and the other members of this subcommittee to put together the best legislation that we can.

Thank you.

Mr. SMITH. Mr. Chairman.

Mr. VOLKMER. The gentleman from Oregon.

Mr. SMITH. Mr. Chairman, if I were from Indiana, I would be optimistic as well. If I were a woman from Oakridge and my husband was in Alaska, I wouldn't be so optimistic. The stark reality of the problem is that it is interesting that we can get it to 1.7 million acres when the critical habitat recommended by the Fish and Wildlife Service is 11 million acres plus. The Vento bill is over 6.5 million acres. The Jontz bill is more intrusive than the Vento bill. I guess the gentleman was talking about what some members have spread around what is old growth. We haven't identified what old growth is. The Forest Service doesn't know. They haven't identified the numbers.

I guess my real concern here—and I think these 2 days have helped us—is that first of all, we're not going to write a long-term bill because we have a short-term problem. We face it today in Lane County, Oregon, and the Pacific Northwest. And all the studies that are coming along are coming next year and the year after.

So we have to have some certainty. By that, I mean that we have to have a stipulated cut in the short-term, in the 3-year period—which the labor-industry bill provides for—and we have to sufficiency, which many people don't like the idea, but the very fact is that without sufficiency we're not ever going to get that to contract. That means that we're going to have to have some opportunity to sell the timber that we plan to harvest in the short-term. Then we have to think about the long-term certainty of this issue.

But when you come from two points of view—when you come from a point of view that you never want to harvest another tree, against the point of view that you have to have some timber for timber-dependent communities, there is a long way between those two points of view. Getting a compromise, Mr. Chairman, between those that don't want to harvest anything, and those that need timber for their livelihoods and economics of a small part of this Nation is going to be a tough program.

I'm willing to work with the gentleman from Indiana as well. I'm kind of forthright about where I stand. Anointing 1.3 billion board feet as the bottom line is about 30 percent of what we harvested last year, Mr. Chairman. We authorized 3.2 billion. Lane County is going to go down the tubes. My suspicion is that Lane County residents are not going to increase taxes. More likely they are going to get rid of some county employees, libraries, pools, recreation facilities, and they're not going to succumb to that. You're not going to raise property taxes because you have a 1.5-percent limitation in Oregon. So raising taxes is a poor alternative realistically.

That means that you draw everything down. You squeeze everybody. The Pacific Northwest is squeezed, our communities are squeezed, our State is squeezed, and it's easy to be pessimistic

about that type of thing because unless we can unravel this thing shortly, we're going to face economic disaster.

Point fingers where you may, that is our problem.

Mr. VOLKMER. I forgot to ask a couple of questions. Mr. Olson, I can't let this past. I'm going to have to ask you to detail part of this.

In your statement—and most statements—this is true, but the context of it bothers me a little bit and I will explain why. "Today the United States is both the largest exporter of raw logs and the largest importer of finished wood products."

Would you explain where those finished wood products come from?

Mr. OLSON. All over the world, I would expect, primarily—

Mr. VOLKMER. Are they coming from our exported raw logs?

Mr. OLSON. No, I don't believe so.

Mr. VOLKMER. No, they're not. But you put that all in one sentence. The reason I say that concerns me is because last year, after I refused to go ahead and rubber stamp the gentleman from Indiana's bill, I had a young lady from St. Louis, who is with the National Wildlife Federation, run around my district saying that we were exporting all these raw logs and then we were importing all the finished products from Japan.

Mr. OLSON. To the extent that somebody—

Mr. VOLKMER. That upset a lot of people.

Mr. OLSON. That is an incorrect statement.

Mr. VOLKMER. That is a very incorrect statement. We have contacted some of the reporters and asked them at least to contact us before they printed such wild statements, but it was in print out there.

This is the kind of thing I mean, "Today the United States is both the largest exporter of raw logs and the largest importer of finished wood products" someone would get that suggestion by reading that, don't you think?

Mr. OLSON. I didn't write it with that intent, so no I didn't think that.

Mr. VOLKMER. What is the purpose of it?

Mr. OLSON. The purpose of it is to set some context around the fact that we are net importers of wood products.

Mr. VOLKMER. Yes, we are.

Mr. OLSON. And at the same time, we are exporting 24 percent of the raw material that is harvested in the Pacific Northwest.

Mr. VOLKMER. But if we didn't export those raw logs, guess what? We are still going to be the largest importer of finished product.

Mr. OLSON. That is correct.

Mr. VOLKMER. One has nothing to do with the other.

Mr. OLSON. I don't think so.

Mr. VOLKMER. One does not impact on the other. Is that correct?

Mr. OLSON. That is correct.

Mr. VOLKMER. I just wanted to get that on the record.

I would like to make a statement, too, and then we're going to close finally, unless someone wants to say something about what I'm saying.

I don't see any doom and gloom. I see serious hardship for a lot of people. I see more than Mr. Olson sees, and I think I see more than maybe others see coming down the pike. I think a few more jobs lost, Mr. Olson, than the amount you put in here, as a result of the legislation, whatever we pass. I'm trying not to be a doom and gloom person, but face reality for what it is. Don't hide it. To me, it has been hidden too long.

Last year I didn't hear anybody—as we had the earlier panel with the gentleman from the carpenters union who sat in the middle who lives out there, Ms. Osborne, who has made her statement—these are the kinds of things that are happening and are going to happen more. There are going to be more people affected. In my opinion, it's going to cost a lot of money in order to try to correct it so that somebody doesn't have severe hardship, so that families can go on and live.

In my opinion, a lot of those families are not going to be able to live where they have been living all their lives and all their generations. I think we had better face that. Let's not hide it. Let's admit that it is going to happen. So what are we going to do about it? Are we going to tell them it's tough luck and to move to Portland, Seattle, or San Francisco and find a job?

That's not an answer to me. I don't care if Portland and Seattle are growing and you're getting 5,000 a month or 500,000 a year in new jobs. It doesn't make a bit of difference to those people in towns like Oakridge that Seattle has gained and Portland has gained. It doesn't make a bit of difference to those people.

The reality is that if we're going to do what I think should be done, and if we're really going to have care for those human beings out there, much as we care for the animals and the species, then I think we ought to be prepared to spend the money.

The same things goes—I agree with the gentleman from Oregon. I don't know if we can get it done or not, but I agree that if you have a private landowner out there that has 27 acres of trees, or 50 acres of trees, or 100 acres of trees, and they can't cut them any more because of what is going to be done, and what has been already that they should be paid for those trees. That's a public policy. They should be paid. They shouldn't have to bear the brunt of a Federal public policy.

Therefore, it is not an easy thing. I don't know where we're going to get the money, I really don't, but we're going to have to try.

The same things goes for you, Commissioner Rust. I was just there visiting with my good friend and colleague that has worked so hard on this in the State of Washington. I mentioned to Sid that I didn't know how long we could carry 50 percent payments to counties and schools out there when we don't have very much money coming in from out there. Do you understand what I'm saying? With the pressures that we're going to have on the budget, I don't know if you're going to be able to continue getting that kind of money.

Mr. Rust. I would hope that we're partners through thick and thin in that regard. I think those historic formulas are perhaps more important than where you put the allowable cut. I urge that you retain those formulas and fight for them. I think they are ex-

tremely important. Timber is a long-term investment. We may be down for awhile, but we'll be back up again. That's the history of the Pacific Northwest.

I heard many people here say that it is the greatest timber-producing area in the world.

Mr. VOLKMER. There is no question about it.

Mr. RUST. If we can get this environmental business rationalized and straightened out, we will continue to bring in money for the Federal Treasury. I do think the lieu of taxes principle is an important principle. It means a great deal to the people in the entire Pacific Northwest.

As far as that goes, there are 48 States in the Union that have some form of receipt sharing with the Federal Government.

Mr. VOLKMER. I agree. The fact that we go to impact aid like we do for schools and where you have Federal facilities, et cetera—that may be the way we have to go. But there is no question that we have to divorce it from the formula. We have now where we have schools in forests where there is not going to be any cutting, so there is not going to be any revenues. That means we have to divorce it from that.

Thank you all very much.

Mr. MORRISON. Thank you for your patience and your investment in the last few days.

Mr. VOLKMER. I just want to remind the gentleman from Oregon that we still have trees in Missouri. [Laughter.]

The subcommittee is adjourned.

[Whereupon, at 7 p.m., the subcommittee adjourned, to reconvene, subject to the call of the Chair.]

[Material submitted for inclusion in the record follows:]

Statement of Brock Evans

Vice President for
National Issues

National Audubon Society

Thank you for the opportunity to testify today on this important subject. I wish to state that not only is my statement on behalf of the over 600,000 members of the National Audubon Society, but it has also been reviewed and approved by the Ancient Forest Alliance -- a grouping of over 100 organizations, national and regional, each devoted to the important task of rescuing and protecting forever the ancient forests of the Pacific Coast, while there is still time.

And that is why we are here today, Mr. Chairman. We commend you and the Committee for holding hearings, hopefully with an eye to final and definitive legislation which shall give protection to these forest treasures.

Now is not the time to go over once again the qualities that make America's remaining ancient forest unique, and so obviously a rich heritage that should be passed on to future generations, instead of being further liquidated, as it has been for nearly a century now. Its trees of great age and size, the tremendous biodiversity of its flora and fauna -- many species of which can live nowhere else; its unique role as a producer of the clearest and best anadromous fish-spawning waters to be found anywhere; its growing recognition of a store-house of medicinal plants, such as the Pacific Yew, and no doubt many others; its unequalled spiritual and recreational values -- all have been well documented by many scientists and other witnesses, in hearings before this committee, stretching back to 1986 at least.

Now is the time to act and do something about it. We are hopeful that out of these hearings Mr. Chairman, will emerge actual legislation which will first and foremost, guarantee protection, forever, of our remaining ancient forests on public lands in Washington, Oregon, and California; and second, assist those individuals and communities, who through no fault of their own, relied on the promises of government agencies that all the national forests would be available for them to log. Now that they find -- with our new awareness of the unique scientific and biological values of the ancient forest -- that these policies are to be changed, any final legislation must help them make the transition into a second growth economy, a transition which is already occurring anyway.

On the point of economic transition Mr. Chairman, we share the view of federal Judge William L. Dwyer, who in his historic ruling of May 23, 1991 enjoining logging on 66,000 acres of ancient forest, pointed out in Court Finding #11: "The region's timber industry has been going through fundamental changes. The most important is modernization which increases productivity and reduces the demand for labor (i.e., the jobs available). There have also been recent changes in product demand, and competition from other parts of the country, and the world, and in the export of raw logs for processing in the Far East. The painful results for many workers, and their families and communities, will continue regardless of whether the owl habitat in the national forest is protected (emphasis added)."

Mr. Chairman, if present rates of logging guarantee the final liquidation of the ancient forest in a few years anyway, then surely it is no solution to permit the logging to continue until we have neither big trees or jobs left. The solution is to pass legislation protecting both.

The question then before us in these hearings is not whether, but what, kind of legislation will best protect the ancient forest, will best operate to resolve the controversies that have seethed across the Northwest for the last five years, and will best provide that certainty of supply of wood fibre from the forest that the timber industry needs, and at the same time, provide the equally important certainty to all the rest of us, that our ancient forest ecosystems, with their rich biological, spiritual, and recreational components, will remain intact forever -- as a beacon which states, not only to all of the American people, but to all the rest of the world, that it is indeed possible in this late 20th century, to protect some forests, and not to log everything.

Comments on legislation

Several bills have now been offered which purport in one way or another to be solutions to the Northwest forest issue. They are H.R. 842, The Ancient Forest Protection Act; H.R. 1590, The Ancient Forest Act, and H.R. 2463, the timber industry "proposal." We have consistently and long supported H.R. 842 in toto, because we believe it offers the best chance not only for protecting the ancient forests, but for providing a full and complete public process where all sides and factors in the controversy can be considered, evaluated, and finally set to rest by permanent statute. Only The Ancient Forest Protection Act actually gives protection to substantially all of the remaining ancient forest so that it cannot be logged in an interim period, while further scientific and political decisions are made. Only The Ancient Forest Protection Act, as now written, would guarantee protection for the entire heritage that is our ancient forest.

The Ancient Forest Act itself has many good features in it, including recognition that of the need for an ancient forest reserve system, the protection of specific "crown jewel" areas, a review by a scientific panel and committee, and economic aid packages for affected workers and their communities. We support these concepts. But we have not been able to support H.R. 1590, because on the crucial question of protection of the remaining ancient forests, our calculation is that at most, it would protect only about one-third of what remains -- not enough to protect either the spotted owl or any other species. And, because of its mandate of a 2.6 billion board foot allowable sales quantity for the next the three years, it would lead to the decimation of almost all the remaining ancient forest that is not protected. We believe that a mandated cut of this volume will not only lead to yet more overcutting on the West side "owl" forests, but will probably damage the even more threatened East side forest (see testimony below) beyond repair. This is because, already, forest planners and timber

purchasers are attempting to "make up" the volume allegedly "lost" from previous logging levels due to various restrictions imposed by species protection measures on the West side. Thus, H.R. 1590 will certainly not protect the values that need to be protected.

About the industry bill, the most original thing we have seen in it is that it deigns to use the words "old growth forest" and "reserve" in the same sentence. Beyond that, when you read the fine print, it will also surely lead to the extermination and logging of almost all the rest of the ancient forest. It requires that the reserves mostly be established from already protected areas (Judge Dwyer has observed -- in Finding #3-- that existing protected areas will not protect the ancient forest); and it calls for logging inside the reserves anyhow. Beyond that, and even more unacceptable and dangerous, the industry bill mandates allowable sales quantities, mandates that ephemeral term of "community stability" -- meaning maximum logging; it mandates amendments of the Endangered Species Act, suspension of judicial review in certain cases, and "streamlining" of the appeals process. One section of this bill is even intended to lead to proposals for future logging of already-protected wilderness areas and national parks, by initiating a "review" of the ancient forests on these lands. All these are totally unacceptable concepts to us, and we will fight them with everything we have.

Finally, the industry bill purports to extend these concepts beyond the Northwest issue and forests, to all the national forests of the country. A particularly insidious provision (Section 304) seems to actually repeal every federal law for the interim period that might interfere with the goals (timber primacy) of the main bill. Presumably, this means not only the environmental laws that are so onerous to the industry, but also safety laws such as OSHA, civil rights laws, and minimum wage laws. Mr. Chairman, if the industry wants a fight, its bill has certainly provoked one. I can imagine no single piece of legislation which would do more to tie up any resolution of this issue, than to attempt to expand it to all the national forests of the whole country. It may be the timber industry's desire to make logging the number one priority of the forests once again, to make tree farms out of all the national forests, and to suspend the citizen's right to appeal forest plans that do otherwise -- but we can assure you that it is not the desire or the non-logging public. This bill should certainly be declared as "dead on arrival" as Chairman George Miller of the House Interior Committee did last week. It is frankly not worth discussing even in any of its concepts.

The central elements of any legislation

At the present time, staff and member discussions are continuing in an effort to see if agreement is possible on a legislative package, which might be a blend of some of the elements in the various proposals now before us. This in itself is not objectionable to our community, or to the tens of thousands who have worked so long to rescue our vanishing ancient forest resource.

However, we cannot accept any final legislative package which does not contain at least the following elements:

1. A large ancient forest reserve system, adequate to protect ancient forest-dependent species. No system of "new perspective" logging, nor any political effort to shrink boundaries of protected areas will meet the test of the Endangered Species Act or the mandate of the National Forest Management Act, which require the Forest Service to protect species populations under its jurisdiction. The reserve system must be drawn according to scientific criteria, using the best available scientific information so as to insure that it actually will protect the species inside. In the creation of this reserve system, Congress must set the boundaries, and by map reference; "agency flexibility" here will simply guarantee that the agencies will not do the job, and we will all end up back in court. While the agencies must of course manage the system once established, they must be allowed no decision making role in determining how big they shall be or how much force it shall include.

It is also imperative, if we are to resolve this controversy, that the reserve system so created embrace all the basic concepts and principles of Conservation Biology: large core reserve areas, representation of all forest types in the reserve system, and provision for habitat connectivity. As this committee knows, the vast bulk of the public forest lands that are now protected from logging are almost entirely mid to high elevation species and categories.

2. The reserve system must include all ancient forests in Washington, Oregon, and California -- not just those of the Douglas fir region. The great Ponderosa pine and mixed conifer forests of Eastern Washington and Oregon, and of the Sierra Nevada in California are equally, and in some cases more, threatened than those Douglas fir forests of the West side. They also are habitat for rare and endangered species which can live nowhere else. And they have even less protection by law at the present time.

Exhibit A, attached hereto, documents the ecological catastrophe that is occurring on the East side forests in Oregon and Washington due to mismanagement by the Forest Service. This is an article which quotes Forest Service officials and scientists as saying that the Blue Mountain Area in particular (site of the Wallowa-Whitman, Malheur, and Umatilla National Forests) is in a state of near-ecological collapse. This collapse is due to two factors above all else: first, decades of high grading and logging out the biggest and best of the Ponderosa pine stands, thus destroying the gene pool which could have produced a future healthy stand; and second, decades of fire suppression which have created nearly impenetrable thickets of down material, vulnerable to disease and even worse fire catastrophes later on. These forests simply must be included in ancient forest protection system before it is too late.

3. Congress to make allocation decisions, not the Forest Service or BLM.

Our community completely opposes any efforts to divert resolution of this issue away from the Congress and into the discretionary hands of either of the two "forestry" agencies that have jurisdiction over the land. We cannot accept any discretion given to these agencies to make decisions about which ancient forest shall be logged and which shall not be, because of the past track record of these institutions. Ever since full scale logging began in the Pacific Northwest, these agencies have demonstrated a single-minded devotion to one issue and one alone: getting the logs out, at all costs, no matter what. The harsh and tragic result of these unconscionable decisions -- made over our bitter protests nearly always -- are now there on the face of the land for all to see, in a vast sea of watersheds, devastated scenic views, and destroyed fisheries. Evidence of this wrongful and illegal single-use emphasis is also to be found in the long string of victories in courts of law, challenging these bad practices, and winning.

The whole reason we are at the present point is because, in the words of Judge Dwyer, "the problem here has not been any shortcoming in the laws, but simply a refusal of administrative agencies to comply with them. . . . this invokes a public interest of the highest order: the interest in having government officials act in accordance with law."

Mr. Chairman, many of us believe that the public forests will never truly recover from past agency mismanagement practices. Thus it is unconscionable and unnatural to expect that the same agencies which have done so poorly can ever be trusted to take actions now required which are totally against everything they have done in the past. It will simply not work. Exhibit B, attached hereto is an article from the *Bend (Oregon) Bulletin*, titled "Timber sale errors turn 'heaven into hell'." Dated March 1, 1991, it points out well over 30 Forest Service "mistakes" in planning and managing its timber sale program to protect streams, and other wildlife -- even in areas scheduled for logging. We have no doubt we will win this lawsuit as well, and further no doubt that this is only the latest tragic manifestation of, what the article points out, is a "management culture" issue insofar as the Forest Service is concerned. All the reward systems, all the promotions, all the evaluations are done on adherence to the Forest Service's viewpoint on things, and to getting the logs out. The foxes cannot be allowed to guard the chicken coop anymore.

Exhibit C, attached hereto, is a press release dated April 8 1991, issued by one of our local Audubon chapters, the Umpqua Valley Audubon Society. This document refers to the logging of over two dozen centuries-old Douglas fir trees at the Cavitt Creek Falls site along side the much-touted BLM "North Umpqua River Scenic Trail," on the grounds of the alleged safety. As the release points out, it was just another excuse for logging; and the tragic destruction of this site points out well the

inability of this "forest" agency to even manage the already designated scenic areas under its stewardship.

4. Management of reserve areas. We cannot accept any proposition which would permit the reserved areas to be "managed" or "treated" with any of the tools and accouterments of what has come to be known as "scientific forestry." In our lexicon, and in our direct experience, this simply means logging, once again. The reserved areas must have no "new forestry" or "new perspectives" applied to it in any way. "New forestry" at best is an unproven concept, and calls for removal (in Dr. Franklin's words) of up to 70 percent of the volume. This is not an ancient forest.

In the same manner, the standard boilerplate language we see so often, permitting timber cutting in cases "where necessary for salvage or prevention of disease," etc., can also not be permitted. This is a loophole large enough to drive a logging truck through, and has been abused so many times by the agencies in the past to cut down big trees, that if such clauses are included in any ancient forest legislation, they will guarantee destruction of the reserves.

5. No interference with existing environmental laws. As Judge Dwyer said, we have good environmental laws, which if implemented properly by the agencies, would have protected the ancient forest, and guaranteed a healthy timber economy. The Endangered Species Act, the National Forest Management Act, the Clean Water Act, and other laws, all have provisions which would take care of the land, and help us achieve balance. Once again, to quote Judge Dwyer, "to bypass the environmental laws, either briefly or permanently, would not fend off the changes transforming the timber industry. The argument that the mightiest economy on earth cannot afford to preserve old growth forests for a short time, while it reaches an overdue decision on how to manage them, is not convincing today. It would be even less so a year or a century from now."¹

We will resist with everything in our power any efforts to achieve so called "sufficiency" by suspending or altering the very adequate processes of administrative and judicial review now before us, or by altering any of the environmental laws that have so well stood the test of time.

6. Economic package. We support and advocate all reasonable measures, such as many of those included in H.R. 1590 to assist local communities which may experience some dislocation if their supply of federal ancient forest is suddenly cut off. As we recognize that such supplies cannot last indefinitely, we further recognize that there are human problems that must be addressed. We propose, in addition to an increased emphasis on commercial thinning in other federal forests, efforts made to diversify wood-manufacturing facilities to more value added products, and more

¹ Memorandum of Decision 5/24/91, p. 34

emphasis on private lands, also an examination of the critical log export situation.

As Judge Dwyer pointed out (Finding #42) "to the extent that Pacific Northwest mills have had supply shortages, the problem has been exacerbated by the export of raw logs. About 30 percent of the timber harvested in Washington and 11 percent of that harvested in Oregon is exported. Exports from private lands in Washington, Oregon, and Northern California during 1989 totalled 3.637 billion board feet. The exported logs produced no mill jobs or added value in the United States. A ban on exports would not automatically shift every raw log to domestic buyers, but would provide a major source of additional supply. It is true, as the Forest Service and WCLA point out, that transportation costs from Western Washington to Southern Oregon exceed those for logs produced in the immediate vicinity. They are nevertheless lower than the cost of transportation to Japan, China, or Korea. An export ban would also have the effect of moderating log prices generally."

Mr. Chairman, any solution to assist workers which may be affected by protection of the public's remaining ancient forest must include some way of dealing with the flood of log exports from private lands now racing on fully loaded trucks past empty mills, crying for timber. It is simply unconscionable for this industry to demand that the public's forest -- so valuable for wildlife and recreation which can be had nowhere else -- bear the burden of their profit seeking through the export market.

Conclusion.

We have come a long way on this issue, from the early years when many tried to deny that there was any problem at all, to now, when all sides recognize that we are fast losing a spiritual, ecological, and economic treasure that we can never get back -- the ancient forests of our nation. Now is the time to act, once and for all, to protect this forest while there is still time. And while we do this, we can also take measures to minimize the impact on the economy. As Judge Dwyer pointed out: "... while the loss of old growth is permanent, the economic effects of an injunction are temporary and can be minimized in many ways."²

This also is our belief, Mr. Chairman. We are looking forward to working with the Committee in every way possible to achieve these goals. Thank you.

(Attachments follow:)

² Ibid. . p. 34

FROM: NATL. WILDLIFE FED. PDX TO: NRS-DC

APR 15, 1991 8:49 PM P.22

Poor conditions ravage forests

Decades of cutting choice timber leave once-vital eastside forests susceptible to fires and disease, devastating the ecosystem

By KATHIE DUBBIN
of The Oregonian staff

LA GRANDE — Oregon's eastside forests are dying, and scientists have no easy remedies for the ecological catastrophe. The causes are clear:

For most of this century, loggers have removed the great ponderosa pines that gave the forests their beauty and vitality, leaving much poorer fir, spruce and lodgepole pine to grow up in their place.

And for decades, the U.S. Forest Service and private timberland owners have aggressively suppressed the wildfires that once helped keep the forests healthy and vigorous.

What exists today in Oregon's Blue Mountains, greatly unlike the forests of the 19th century, is a forest of dead and dying trees, vulnerable to widespread insects, drought or fire.

In some areas, where the devastating western spruce budworm has passed through, the forests look as if giant herbivores had started at the crowns of the tall conifers and munched their way down, leaving only skeletons of trees in their path.

Further south, on the Cascades, Where men and Fremont redwood forests, thousands of dead trees are seen in the forests, the forests look as if giant herbivores had started at the crowns of the tall conifers and munched their way down, leaving only skeletons of trees in their path.

"It is wrong for the spotted owl issue, this would probably be the biggest story on the forest," said Bob Messenger, La Grande timberlands manager for Boise Cascade Corp.

It wasn't always this way. The steady pressures and high log prices of the Blue Mountains captured pioneer foresters' imaginations. In the early 1900s, the U.S. Forest Service was created from the federal lands. The first timberlands plan in the late 1920s or '30s.

"After dinner, when we had finished the first half, we looked back upon the country we had passed through," the



Endangered Royal Wickenham surveys damage done by budworms in Blue Mountains timber against to salvage logging.

start over to cross the remains of a conifer and return the dying forest to something like their original condition. Each place of the solution — the use of fire, biological control of insects, wholesale conversion of such forests to healthy stands through logging — carries heavy costs and high risks.

"We will not achieve healthy forests overnight and there are no silver bullets," Wickenham wrote in a paper prepared for the Blue Mountains National Research Institute, a public-private research group formed a year ago to address forest health.

Please turn to 4/15/91 Transmittal, Page 40

endangered Royal Wickenham surveys damage done by budworms in Blue Mountains timber against to salvage logging.

To return it to health will take decades, if not centuries, scientists say. Wickenham says it will require conserving certain areas in the Blue Mountains for future use in the future. The future of forest health may be in the future.

in other, forest managers may have to

4/15/91 Transmittal, Page 40

Exhibit B- 5

THE BULLETIN Community

3/14/1

• A dose of success
• Car sales avoid slur

Timber sale errors turn 'heaven into hell'

By The Press
Staff Writer

SISTERS — U.S. Forest Service timber sale plans show that 130 four-acre tracts are supposed to have an unnamed stream that empties into Abbot Creek in the Metolite River basin.

Instead, the stream is named as it meanders through a large clearing that took every tree from the small gully, north of Sisters in the Deschutes National Forest. Because of the lack of trees and other plants to anchor the stream's banks, the small rivulet has cut down through four to six inches of soil, and discharges milky gray water during storms.

This plan is now another arrow in the quiver of Sisters lawyer and environmentalist Paul Dewey, who last year exposed a series of similar Forest Service errors that caused damage to wildlife habitat and forest scenery in the sensitive Metolite River country.

"Look at all of the green algae growing in this stream," Dewey said Wednesday on a field trip to the camp-leaved creek.

"You can imagine what it must have been like with those big trees along the bank. It's gone from heaven to hell."

Dewey's field trip is a stark illustration of the ecological state of what the Forest Service has termed a failure of the "manage-ment culture."

Around the Sisters District, there are at least 33 other timber sale units where Forest Service attempts to protect wildlife habitat and scenery went very wrong between the planning and the logging.

The Forest Service has investigated these sales and confirmed the errors, placing the blame on mismanagement by the former national forest supervisor and former Sisters District ranger. Now a committee of Forest Service officials and public representatives is working to come up with a plan to prevent similar problems in the future.



But, by all appearances, there are more bungled logging plans the Forest Service hasn't even noticed. Another stop on the field trip is a 20-acre clearing on the side of a ridge near Cold Spring. Forest Service plans for the Cold Spring timber sale called for 75 green trees and stumps to be left for wildlife in the clearing, but Dewey's inspection turned up only one live tree and three stumps.

The Forest Service has yet to inspect the site for errors, Dewey said.

Though the Forest Service has admitted its errors, Dewey isn't satisfied with the agency's explanation.

"They didn't come up with any why's other than managerial failures," he said. "I think there is a little more room for explanation. Who did it and why?"

Sisters District Ranger Karen Shumate said one of the tasks of the new committee is to determine whether some of the ecological damage can be healed.

"I'm hopeful there will be some opportunities to mitigate and to correct the problems," she said, "but there aren't any site-specific plans yet."

The committee's last scheduled meeting is Saturday, but more meetings are likely before a plan is finished.



Sisters lawyer Paul Dewey examined damage to stream from clearcut.

Blunders laid to poor communication, 'let it slide' attitude

A series of timber management blunders in Central Oregon's Sisters Ranger District were caused by breakdowns in communication, according to a report released by the U.S. Forest Service.

The report, previously withheld from the public by officials of the Forest Service's Portland regional office, provides a frank evaluation of the agency's mistakes on at least 32 timber sale units. These mis-

takes led to the destruction of wildlife habitat and forest scenery in one of the most sensitive tracts of forest in the region.

"The present atmosphere of distrust and suspicion by our internal public was caused by our actions, responses and lack of responses," the report says. "We are not always doing what we say we are going to do and we are not living up to our agreements."

The report was prepared by a team of local Forest Service officials who probed charges raised by

Sisters lawyer and environmentalist Paul Dewey late last year. That probe finally was taken over by the agency's Portland office, which issued a final report to mid-level managers last week.

Those detailed sections were released today to dispel speculation about their contents, according to Deschutes National Forest Supervisor Joe Cruz.

"Some of the speculation that has gone on with our public is really much worse than what is

actually in these reports," Cruz said. "What actually is in there is a series of 'probable cause' statements outlining the investigators' opinions about the Sisters District sales."

The investigators were not to carry out his name on the ground properly. But, in communication one year later, the others who actually worked on the report said,

"The agency failed to live up to

agreements made with the public because managers didn't place enough importance on them. Communication also was poor and some employees were so loaded down with other work that they developed an attitude that said, 'If it is not your job, let it slide.'"

"The Forest Service failed to check timber sales during and after logging to make sure steps planned to protect wildlife habitat, water quality and other resources were actually taken."

—The Press



WESTERN REGIONAL OFFICE
104 LEXILEN DRIVE
DALLAS, TEXAS 75201
935-1440

**Protecting Oregon's lands,
waters and natural resources**



Umpqua Valley Audubon Society

P.O. Box 381, Roseburg, OR 97470

April 8, 1991

FOR IMMEDIATE RELEASE

For More Information:
Wendell Wood 344-0675
Jim Kaupola 496-0331

2 nicht (-114)

Area conservationists and local residents have decried the Bureau of Land Management's (BLM's) recent logging at a scenic old growth grove, campground, and picnic area located 30 miles southeast of Roseburg.

On Sunday, April 7, representatives of the Umpqua Valley Audubon Society and the Oregon Natural Resources Council (ONRC) toured Cavitt Creek Falls with local residents who expressed frustration with BLM's "chainsaw mentality, mismanagement of the park, and lack of response to residents' expressed concerns."

The Roseburg District BLM claims that over two dozen, centuries old Douglas firs were cut down because of the potential hazard they posed to visitors using the park. But conservationists and area residents denounced the logging as "destructive" and "unnecessary," and claimed that BLM had "cut down some of the largest, ancient firs left on Cavitt Creek," according to Umpqua Valley Audubon Society Conservation Chairperson, Jim Kauppila.

"We are tired of BLM using 'hazard trees' trees as an excuse for logging the remaining small places of forest majesty, particularly those so easily accessible on our public lands," said Kauppi. "The ancient forest grove surrounding this waterfall is what makes this place such a special place to visit," Kauppi said.

"The ancient trees at Cavitt Falls, cut or still remaining, are no more likely to fall on anyone than any other trees of similar size and age in any other old growth forest," said ONRC Conservation Coordinator, Wendell Wood. "Statistically, encountering log trucks, laden with such trees, on narrow, twisting roads, continues to kill or maim far more people than any of these so-called 'hazard trees,'" said Wood. "They move along the highway horizontally, as

far greater speeds than they ever land on the forest floor," Wood said. Wood said approximate ring counts on some of the trees felled showed that their ages exceeded 400 years.

"The Cavitt Creek drainage has already been heavily logged," said Cavitt Creek resident Karen Jackson. "The falls is one of the few places of true beauty left, and it sickens us when BLM refuses to acknowledge the special values we are concerned about here," said Jackson.

Both Wood and Kauppila charged that despite their organizations' standing and repeated requests for information on all upcoming Roseburg District logging activities, the BLM failed to provide any advance public notice before the logging began. One area resident said that the only advance notice were some "white X's" spray painted on some of the trees just shortly before the big trees began to fall."

"This isn't the only example of the Roseburg District BLM cutting giant trees at local parks and recreational areas without even telling the public first," said Wood. "A year ago, BLM made a big deal of their recently completed portion of the North Umpqua River Scenic Trail, and held a public dedication at Swiftwater Park, a few miles east of Glide, Oregon. The three giant trees that marked that trailhead are now only stumps, pathetically framing a BLM scenic trail information sign," said Wood. Other "hazard logging" was recently conducted at another BLM, North Umpqua River Recreation Site at Susan Creek. Wood claimed familiarity with the Cavitt Creek and North Umpqua area, as the author of an Oregon ancient forest hiking guide, about to be published, and as a former resident and biology teacher from Douglas County.

"By destroying some of the area's most outstanding natural features, the agency (BLM) has once again demonstrated its inability to properly manage even Scenic Recreation Trails along the North Umpqua River, a component of the Nation's Wild and Scenic Rivers System," said Wood.

ONRC, which has formerly advocated that all BLM forestlands in western Oregon be taken from the agency and placed in the National Forest Reserve System, says it will strengthen its efforts to see that all remaining BLM low elevation, ancient forests be protected as part of Ancient Forest legislation currently pending in Congress.

"In any other part of the country, these centuries old trees would be revered. It would be a crime to cut them down," Wood said. "The massive Douglas firs and cedars at places like Cavitt Creek Falls and Susan Creek, should be expressly labeled as 'Public Heritage Trees,'" said Wood. "If a forest manager is concerned that a giant tree is likely to fall on a picnic table, you move the picnic table. It's insanity to wantonly kill such age-old wonders," Wood said.



U.S. HOUSE OF REPRESENTATIVES
HOUSE COMMITTEE ON AGRICULTURE

CONFEDERATED TRIBES
of the
Umatilla Indian Reservation

P.O. Box 638
PENDLETON, OREGON 97801
Area Code 503 Phone 276-3018

U.S. HOUSE OF REPRESENTATIVES
HOUSE COMMITTEE ON AGRICULTURE
FOREST, FAMILY FARMS, AND ENERGY SUBCOMMITTEE

MAY 30, 1991

GREETINGS FROM THE CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION. AND TO CONGRESSMAN BOB SMITH AND CONGRESSMAN MIKE KOPETSKI, A WARM HELLO FROM THE CONFEDERATED TRIBES.

MY NAME IS LOUIE DICK, JR. ^{Umatilla Indian Reservation} I AM THE VICE CHAIRMAN OF THE CONFEDERATED TRIBES. IN MY YOUNGER DAYS I WORKED FOR THE U.S. FOREST SERVICE IN THE UMATILLA NATIONAL FOREST FOR 25 YEARS. I AM PLEASED TO BE HERE TO EXPRESS SOME THOUGHTS ON PENDING LEGISLATION AFFECTING THE GREAT ANCIENT FORESTS OF THE PACIFIC NORTHWEST.

AS YOU KNOW THE CONFEDERATED TRIBES MAINTAIN AND EXERCISE TREATY-RESERVED RIGHTS TO THE ANCIENT FORESTS IN NORTHEAST OREGON AND SOUTHEAST WASHINGTON. THESE RIGHTS APPLY TO FISH AND WILDLIFE AND ROOTS AND BERRIES FOR THE 6.5 MILLION ACRES CEDED TO THE U.S. GOVERNMENT, MANY OF WHICH ARE MANAGED BY THE U.S. FOREST SERVICE, ^{and BLM} WHEN OUR FOREFATHERS NEGOTIATED THIS TREATY, THEY WERE WISE ENOUGH TO LOOK TO THE FUTURE AND ADDRESS THE NEEDS OF THOSE NOT YET BORN. I AM HERE TODAY TO ASK THAT YOU AND I ALSO LOOK TO THE FUTURE TO LEGISLATE IN THE FAVOR OF OUR CHILDREN - OUR FUTURE.

MANAGEMENT OF U.S. FOREST SERVICE LANDS HAS RESULTED IN WHAT THE SCIENTISTS HAVE TERMED ECOLOGICAL COLLAPSE. OVEREMPHASIS ON HARVESTING TIMBER HAS RESULTED IN A FOREST THAT CANNOT SUPPORT ITSELF, LET ALONE SUPPORT THE MEMBERS OF MY TRIBE. RIVERS IN OUR CEDED LANDS NOW CARRY WATER SO WARM THAT THEY CAN'T SUPPORT THE SALMON. TREES, IN FACT ENTIRE FORESTS, ARE NOW SICK AND DYING. I AM NOT HERE TO POINT THE FINGER OF BLAME, BUT RATHER TO TELL YOU THAT IF MANAGEMENT OF THE UMATILLA, WALLAWA-WHITMAN, AND MALHEUR NATIONAL FORESTS DOES NOT CHANGE DRAMATICALLY IN THE NEAR TERM, THERE WILL BE NO FORESTS.

SCIENTISTS ARE NOW TELLING US THAT WE MUST MANAGE THESE FORESTS AS ECOSYSTEMS. MY SCIENTISTS, TRIBAL BIOLOGISTS, ARE TELLING ME THE SAME THING. THEY TELL ME THAT MANAGEMENT AS AN ECOSYSTEM MEANS LETTING THE LAND TELL US WHAT IS ACHIEVABLE, NOT THE OTHER WAY

TREATY JUNE 9, 1855 ♦ CAY 35 UMATILLA AND WALLAWALLA TRIBES

AROUND. BUZZWORDS NOW ARE FOREST HEALTH, BIODIVERSITY, AND ECOSYSTEM MANAGEMENT. EVERYTHING IS CONNECTED TO EVERYTHING ELSE AND MANAGEMENT IN ONE PART OF THE FOREST WILL INFLUENCE RESOURCE HEALTH IN ANOTHER PART OF THE FOREST.

IT IS FASCINATING TO ME TO LISTEN TO THESE RECOMMENDED CHANGES. THE DEER AND THE ELK AND THE SALMON ARE ALL CONNECTED TO THE LAND. IT IS FASCINATING BECAUSE AS TRIBAL MEMBERS WE TEACH THIS SAME CONCEPT. WE CALL IT THE GREAT CIRCLE - THE CIRCLE THAT CONNECTS ALL FORMS OF LIFE, AND THE WATER AND THE GROUND AND THE AIR - AND THE PEOPLE.

THAT WHAT WE DO TO THE LAND WILL IMPACT THE FISH AND ULTIMATELY US, IS NOTHING NEW TO THE CONFEDERATED TRIBES. WE HAVE BEEN TAUGHT THIS CONCEPT NOT AS A SCIENTIFIC FACT BUT RATHER AS A MATTER OF RELIGION AND CULTURE. AND WE DIDN'T JUST LEARN IT LAST YEAR OR 10 YEARS AGO. WE LEARNED IT FROM OUR GRANDFATHERS AND GRANDMOTHERS, AND THEY IN TURN LEARNED IT FROM THEIR ANCESTORS. IT HAS BEEN PASSED ON FOR GENERATIONS - LITERALLY FOR HUNDREDS OF YEARS.

THE REMAINING STANDS OF PONDEROSA PINE ARE AT A PREMIUM IN THE BLUE MOUNTAINS OF OUR HOMELANDS. EVEN THE SCIENTISTS ARE NOW SAYING WE MUST PROTECT THAT WHICH REMAINS AS A SEED SOURCE FOR FUTURE FORESTS. THE PONDEROSA PINE COMMUNITY NEEDS PRIORITY ATTENTION - IT MAY MEAN THE SUCCESS OR FAILURE OF OUR EFFORTS TO REBUILD OUR FORESTS FOR FUTURE GENERATIONS.

MOST IMPORTANT OF ALL WE MUST ALL REALIZE THAT EFFORTS TO MANAGE OUR FORESTS HAVE NOT BEEN SUCCESSFUL. IN PART THIS IS BECAUSE THE WORKING DEFINITION FOR "MANAGEMENT" HAS FOCUSED ON THE HARVEST OF TREES. THE HARVEST OF TREES CANNOT AND WILL NOT STOP. HOWEVER, WE MUST BACK OFF. AND WE MUST CHANGE THE WORKING DEFINITION OF MANAGEMENT. MANAGEMENT MEANS RESTORING RIPARIAN ZONES, BRINGING THE SALMON BACK, PROTECTING FOREST COVER FOR ELK AND MOUNTAIN LION, AND TIMBER HARVEST. IF THE WORKING DEFINITION FOR MANAGEMENT IS CHANGED TO INCLUDE THE RESTORATION AND MANAGEMENT OF WATERSHEDS AND ECOSYSTEMS IT WILL BE A BAROMETER OF OUR SUCCESS. IF THE SALMON RETURN IT WILL BE BECAUSE THEY HAVE COLD, CLEAN WATER, ANOTHER BAROMETER OF OUR SUCCESS. IF WE PROCEED WITH BUSINESS AS USUAL WE ARE DOOMED TO FAILURE.

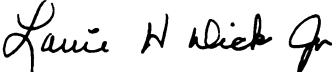
MANAGEMENT OF LANDS NOT PRIORITIZED FOR TIMBER HARVEST MUST ALSO CHANGE. CURRENTLY WE MANAGE WILDERNESS AREAS AND WILD AND SCENIC RIVERS AND OLD GROWTH STANDS BY LEAVING THEM ALONE. WHEN OUR ANCESTORS CEDED THESE LANDS WE MANAGED THEM WITH FIRE. FIRE IS AS IMPORTANT TO THE FOREST AS WATER IS TO THE SALMON. MANAGEMENT MUST ALSO BE PRESCRIBED FOR THE LANDS WE WISH TO MANAGE FOR THEIR NATURAL BEAUTY, AND FOR THE SALMON AND ELK THEY PRODUCE.

THE SOLEMN PROMISES MADE BY THE UNITED STATES IN OUR TREATY OF 1855 HAVE SUFFERED GRAVE DAMAGE IN THE 136 YEARS SINCE THE TREATY WAS EXECUTED. THE IMPACT TO OUR FISHING RIGHTS HAS BEEN THE MOST SEVERE WITH THE DAMS ON THE COLUMBIA AND ITS TRIBUTARIES REDUCING OUR SALMONS TO A SMALL FRACTION OF THEIR SIZE IN PRE-TREATY TIMES.

ON THE UMATILLA RIVER, WHICH RUNS THROUGH OUR RESERVATION, THE CONSTRUCTION OF THREE MILE DAM RESULTED IN THE ELIMINATION OF SALMON RUNS FROM THE 1920'S UNTIL JUST A FEW YEARS AGO. THE PROTECTION AND ENHANCEMENT OF OUR FISHERY RIGHTS REQUIRED CHANGES IN MANAGEMENT APPROACH AND A CONCERTED PROGRAM TO RIGHT PREVIOUS WRONGS. AS A RESULT OF THESE EFFORTS, SALMON ARE RETURNING TO THE UMATILLA. AND, HOPEFULLY, THE SALMON SUMMIT HAS INITIATED A DIALOGUE AMONG THE VARIOUS USERS OF THE COLUMBIA AND SNAKE RIVERS TO PREVENT THE FURTHER DETERIORATION OF THE VARIOUS SALMON RUNS. A SIMILAR CHANGE IS NEEDED IN THE MANAGEMENT OF OUR FORESTS.

I AM HERE TO SUPPORT THE PRESERVATION OF THE LANDS UPON WHICH MY FELLOW TRIBAL MEMBERS DEPEND. AND I AM HERE TO BRING A MESSAGE TO YOU. OUR TREATY RIGHTS ARE POWERFUL. WE INTEND TO UTILIZE THEM TO PROTECT OUR WAY OF LIFE. OUR WAY OF LIFE REVOLVES AROUND PLANNING FOR THE FUTURE GENERATIONS - OUR CHILDREN. OUR ANCESTORS WHO SIGNED THE TREATY DID SO WITH US IN MIND. TODAY I HOPE THAT YOU WILL JOIN ME IN CARRYING ON THE TRADITION OF PLANNING FOR THE NEXT SEVEN GENERATIONS.

RESPECTFULLY SUBMITTED,



LOUIE H. DICK, JR., VICE CHAIRMAN
BOARD OF TRUSTEES
CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION

HOUSE OF REPRESENTATIVES
COMMITTEE ON AGRICULTURE
SUBCOMMITTEE ON FORESTS, FAMILY FARMS AND ENERGY
MAY 30, 1991
TESTIMONY OF MURRAY LLOYD

Mr. Chairman, I am grateful for the opportunity to speak before this committee today.

While I consider myself an environmentalist, I am also about as close to a timber-beast as these gentlemen would care to have sitting next to them.

I am extensively involved in forestry and wildlife issues in Louisiana. I was the 1989 Southern Regional Tree Farmer, and I have met with President Bush to discuss Capital Gains for timber. I am on the Board of Directors of the Forest Farmers Association, chairman of the Louisiana Forestry Association's Wildlife and Recreation Committee, and on the executive committee of the Black Bear Conservation Committee.

I derive a portion of my income from timber. I actively manage my family's Tree Farm, and, God help me, I have even been known to clearcut, a practice I endorse as a viable forest management tool.

We are very much interested in our nation's Ancient Forests. They are a treasure that is a part of our heritage.

We in Louisiana have benefited in at least two ways from the situation in the Pacific Northwest. It has forced us into dialogues and debates about forestry and wildlife issues that have helped us form some workable solutions. And it has also served as an excellent model for how not to handle resource management conflicts.

By contrast, forestry and wildlife management in Louisiana are working quite well.

On Kisatchie National Forest, our management plan has been in place for some time. We have established the Kisatchie Hills Wilderness Area, designated Saline Bayou as a Wild and Scenic River, and we wouldn't know a Below-Cost timber sale if we saw one.

We also have our fair share of Endangered Species animals. Through the Louisiana Forestry Association, we have organized the Black Bear Conservation Committee, with members from agencies, academia, industry, and environmental groups, to recover the Louisiana Black Bear, which is the original Teddy Bear. Most recently, we have begun forming a similar group to work on the Red-Cockaded Woodpecker. And Louisiana made significant contributions toward the recovery and de-listing of the brown pelican and the alligator.

What I am trying to point out is that the system can and does work. Granted, there is room for improvement; there always is. But by meeting on common ground and rolling up our sleeves, we can work out enlightened solutions.

That is why we are so concerned about the Huckaby-Packwood Bill. This bill, with its broad amendments to major environmental legislation, would export the holy-war that is being waged in the Pacific Northwest to all of our national forests in all regions of our country. This bill will have a serious chilling-effect on the cooperative atmosphere that we have worked hard to create in our region. It may even drive some groups away from the table, a consideration the Chairman addressed in his opening remarks yesterday.

This bill, by mandating artificial levels of timber volumes, would not only codify the single-resource management strategy historically practiced in the Pacific Northwest, but would also reenforce the characterization of the Forest service as the U S Timber Service and our national forests as company property.

This approach would be the same as basing our nation's foreign policy decisions on whether or not the Cubs win the pennant. And while everyone would hope for success, we think you would agree there is no logical connection.

We should instead be moving toward allowing the forest service to base its decisions on sound forest management practices.

Settling natural resource conflicts in courts and feeding lawyers is the most inefficient method we can use, but it is an absolute necessity as a tool of last resort. Far from indicating an insolvable problem, the level of public involvement shows a basic health in the system to self correct.

Limiting citizen access to the courts could restrict our ability to solve conflicts informally by forcing everyone to drag out discussions and comment periods and to file unnecessary lawsuits in order to be sure they have protected their rights of appeal.

It is worth noting that, to my knowledge, the only group currently suing the forest service in Louisiana over an Endangered Species question is a timber-purchasers association. How would they feel if this right had been denied?

This bill presents a patchwork of quick-fix ideas that will further entrench an "us against them" mentality in the Pacific Northwest. Nothing will be gained by dragging the other regions into the fray. Instead, much unnecessary conflict will be created, and, as a result, we may see the log-jam that has plagued the Pacific Northwest spread out across the entire national forest system.

None of us wants to see that happen. None of us can stand for that to happen. That is why I am opposed to the Huckaby-Packwood Bill.

**TESTIMONY OF JAY POWER, LEGISLATIVE REPRESENTATIVE
AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS
BEFORE THE SUBCOMMITTEE ON
FORESTS, FAMILY FARMS, AND ENERGY
COMMITTEE ON AGRICULTURE
U.S. HOUSE OF REPRESENTATIVES ON LEGISLATION
RELATED TO OLD GROWTH FOREST MANAGEMENT**

May 30, 1991

Mr. Chairman, members of the subcommittee, my name is Jay Power. I am Legislative Representative for the AFL-CIO, representing more than 14 million working men and women. I appreciate the opportunity to come before this subcommittee today as you examine the issue of forest management of public lands in the Pacific Northwest.

The national AFL-CIO supports efforts in this Congress to resolve the timber crisis which are based on environmental integrity and economic reality. There is no question as to the value of "old growth" forests and the species that inhabit them. Protection of endangered species such as the northern spotted owl should remain a top priority of our nation's environmental agenda.

But protection of jobs, timber-dependent communities and a vital domestic industry - the forest products industry - should be given no less attention in legislation regarding forest management. By any standard, the impact of some of the current proposals on employment in the region would be catastrophic.

We also must not ignore the impact of timber supply on our nation's housing market. Every American deserves the opportunity to purchase an affordable home. Since thirty percent of our nation's timber comes from the Pacific Northwest, drastic curtailment in the volume of domestic timber could mean higher housing costs, especially at the lower end of

the market. This would be a further body blow to the nation's construction industry and workers, who are already suffering double-digit unemployment rates.

Mr. Chairman, in February of this year the Executive Council of the AFL-CIO adopted a resolution supporting a national forest management policy which "balances the protection of the environment and the habitats of endangered species with the livelihoods of the tens of thousands of men and women who work in the wood products industry, their families and the communities in which they live." I request Mr. Chairman, that the complete text of our AFL-CIO Executive Council Statement "Timber Harvesting in Public Lands" be made a part of the permanent record of this hearing.

Consistent with this stated policy, the AFL-CIO supports the recently introduced Forests and Families Protection Act, H.R. 2463. In our view, H.R. 2463 is the best legislative vehicle before the Congress for addressing the timber supply issue in all its aspects.

Because the Forests and Families Protection Act embraces the principals of environmental protection and economic stability, we believe that it deserves serious consideration by this subcommittee. Other proposed legislation before Congress, such as the Ancient Forest Act and the Ancient Forest Protection Act, does not address the various components of the issue in a comprehensive manner.

We look forward to working with members of the subcommittee and the full Congress in support of H.R. 2463 and a balanced national forest management policy. Thank you.

Attachment

Statement by the AFL-CIO Executive Council

on

Timber Harvesting on Public LandsFebruary 19, 1991
Bal Harbour, Florida

For more than a half-century, the trade union movement has advocated forestry methods that reflect a concern for environmental quality and the preservation of our nation's forests. In particular, the AFL-CIO has consistently favored the setting aside of "old growth" stands of public timberland into wilderness areas and parks, along with practices designed to assure an enduring supply of timber available for harvest.

In proper balance, such policies protect not only our environment and the habitats of endangered species, but also the livelihoods of the tens of thousands of men and women who work in the wood products industry, their families and the communities in which they live.

Proposals now before Congress would disrupt this balance in the Pacific Northwest by placing severe new limitations on timber harvesting in an effort to protect the habitat of the northern spotted owl, which is designated as "threatened" under the Endangered Species Act.

Leading forest economists predict that such measures, if enacted, would immediately wipe out more than 100,000 jobs in the logging industry. In addition, communities in Oregon, Washington and Northern California would suffer further job losses in timber-related industries and the service sector. The entire region stands to lose \$3.8 billion, which is five percent of its total annual income.

Moreover, because Pacific Northwest timber makes up more than 30 percent of all the timber used in the United States, severe limitations on its harvest would reduce supply, raise the cost of building materials and thereby exacerbate the shortage of affordable housing.

The issue is not whether the spotted owl should be protected, but rather how to accomplish that goal while preserving the jobs and communities that depend on the continued harvesting of timber on public lands in the region.

The AFL-CIO urges Congress to pursue a policy that will enhance economic stability while maintaining the integrity of our precious natural resources.

###

776

TESTIMONY PRESENTED BY

DENNY SCOTT, STAFF ECONOMIST

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS

OF AMERICA

BEFORE THE

FOREST, FAMILY FARMS AND ENERGY SUBCOMMITTEE

COMMITTEE ON AGRICULTURE

OF THE

U.S. HOUSE OF REPRESENTATIVES

May 30, 1991

Mr. Chairman, members of the subcommittee, my name is Denny Scott. I am the staff economist for the United Brotherhood of Carpenters and Joiners of America, AFL-CIO. Our union represents more than 600,000 workers throughout the United States and more than 30,000 in the Pacific Northwest region of our country. I appreciate the opportunity to come before this subcommittee to testify on the forest management crisis in the Northwest and on our public lands nationwide, and to express our support for H.R. 2463, The Forests and Families Protection Act.

Timber workers in the Pacific Northwest derive their livelihoods from the region's vast forests, both public and private. The jobs of these workers depend directly upon the availability of timber -- a renewable natural resource. But timber workers in particular derive much more from our nation's forests. They look especially to our national forests and wilderness areas for their aesthetic and recreational value. Their lives, and the lives of their families and communities are linked inescapably with the fate of our forests.

Mr. Chairman, the fate of our national forests in the Northwest and elsewhere is extremely uncertain, wholly because of a lack of proper federal guidance. Forest management and timber sales programs are subject to wildly divergent interpretation. As a result, dilatory administrative and legal appeals have all but

halted the timber sale program. Federal agencies responsible for forest management issue conflicting data and findings, or worse, no findings at all.

Interested parties have often found themselves at the opposing extremes of public debate. Without a willingness to compromise, however, it will remain impossible for anyone interested in the outcome of the debate to see its conclusion.

The time has come for Congress to create a legislative framework for forest management which addresses the issues before this subcommittee today. The Carpenters Union has committed itself to advancing a workable solution to the forest management crisis. We look forward to meaningful debate on the issue and related legislation before this committee and the entire Congress.

Mr. Chairman, our union and the national AFL-CIO support H.R. 2463 because it is a fair, balanced bill which addresses the forest management issue in a comprehensive manner. The Forests and Families Protection Act addresses these components:

- 1) old growth reserves; 2) spotted owl protection; 3) timber sales program stability; and 4) displaced worker assistance and economic adjustment measures.

My testimony this morning will touch upon several of the most important features of the Forest and Families Protection

Act.

1) Interim Plan for Public Lands Management

The implementation of a long-term land management program such as we are suggesting, will require at least three years as the affected agencies will need to review their present land management plans. As we move toward a permanent solution, the legislation includes several interim measures designed to address and bridge the current crisis and to provide more certainty for all concerned.

The first step is to put aside those elements of the existing Forest Service and BLM plans in the regions that deal with wildlife and forest management issues. These plans do not deal adequately with the current spotted owl/old growth conflict.

Second, we recommend that Congress grant interim protection to a certain amount of ecologically important, unfragmented old growth forest during the three-year interim period. The amount of land to be protected is a matter we will leave to the agencies and technical experts, acting with criteria set down by Congress.

However, we believe that the acreage involved should be significantly less than the Thomas Committee report, which forms the basis of H.R. 1590, and includes second growth stands in almost half of its total acreage. In determining the protected

areas, we urge Congress to include guidelines for the kind of areas being considered. But the legislation should leave to the agencies the task of actually drawing landline locations of protected areas.

Third, we endorse the concept of minimum timber sale levels -- floors, below which the timber sale program would not fall -- for each of the national forests and BLM districts in the affected regions. Here again, the legislation is intended to serve as a framework and the actual levels will have to be determined through further discussions among all affected parties and during the legislative process. However, we do believe there must be a correlation between the acres afforded protection and harvest levels in a program that is feasible to implement. The sale minimums should be credible, realistic and consistent with old growth reserves removed from the timber sale base. We want to see a real, achievable volume, not a political number that cannot reasonably be reached.

Fourth, compliance with the Endangered Species Act would be accomplished through programmatic consultation on each annual timber sale program. The consultation process would proceed as it is prescribed in the Endangered Species Act and by Fish and Wildlife Service regulations.

Fifth, the industry would engage in an extensive research program to develop and implement alternative forest management

techniques which would allow some degree of timber production that is compatible with the maintenance of old growth values, and would be employed in old growth preserves.

2) Long-Term Program for Public Land Management

The long-term aspects of H.R. 2463 are based on the assumption that the BLM and Forest Service will revise their land management plans over the course of the three year interim program. However, it is important to note that the impact of the legislation goes beyond the region affected by the Northern Spotted Owl. This is because some of the elements of the long-term strategy go to the question of whether or not completed plans, particularly in the case of the Forest Service, can be successfully implemented.

There have been substantial problems with the Forest Service's inability to implement its completed forest plans. This problem has not been as notable in the Pacific Northwest only because these plans are incomplete as a consequence of the spotted owl controversy. However, in the balance of the country, timber supply certainty is just as problematic as it is in the Northwest due to the agency's inability to implement its land management plans. Moreover, this is a problem that must be addressed if we are to have any closure on the conflict in the Pacific Northwest.

H.R. 2463 attempts to rectify this problem by providing guidance for plan implementation which would be effective throughout the country. Without this sort of guidance, none of the bills before the subcommittee will lead to a long term solution for the Pacific Northwest. More broadly, as we correct this deficiency in the Northwest it is both reasonable and necessary to correct it for the balance of the country as well. Therefore, the bill is designed with national and regional components.

The purpose of H.R. 2463 is to establish a long-term program that would: 1) provide a rational process to revise and implement national forest and BLM plans; 2) define the role of national forests and BLM lands in contributing to resource supply needs and economic stability; 3) establish old growth reserves and introduce old growth protection and management as a long-term multiple use value through forest and district plan revisions on the spotted owl forests; 4) reconcile the Forest Service and BLM planning processes and the ESA recovery process; 5) maintain research on old growth forest values.

In addition, the long-term program would continue to provide economic assistance to workers and communities that suffer economic hardship due to the implementation of the legislation.

3) Economic Adjustment Assistance

To the worker who faces unemployment as a result of changes in forest management policy, we must offer assistance and retraining. One of our biggest criticisms of bills introduced by both Rep. Jim Jontz (D-IN) and Rep. Bruce Vento (D-MN) is the short shrift these bills give to the thousands of workers who would lose their jobs, and perhaps their homes, should their legislation be enacted. Our hope is that dislocations and unemployment would be minimized under H.R. 2463. However, in the event that job displacement does occur, we must be prepared.

For that reason the bill includes a comprehensive program of economic assistance to displaced workers designed to ease their transition into new jobs and new communities. We propose a six-year program to assist communities and workers that are economically dependent on timber from the spotted owl forests and districts, and that will be adversely affected by the reduction in harvest levels resulting from: (1) the legislation that we propose; (2) the listing of the Northern Spotted Owl; (3) the development of a critical habitat program; and (4) other related events.

In order to fund this program, a special economic adjustment fund would be established with a percentage of the federal portion of timber receipts. We believe that the percentage that should be used, unstated at present, should correlate to: (1) the number of acres of federal and private lands protected for old growth or spotted owl purposes; and (2) the remaining harvest

levels that are allowed and associated economic activity that will result. In fact, the harvest levels will dictate the percentage based upon: (1) the amount of worker assistance that will be needed based on employment impacts; and (2) the projected timber receipts available after harvest reductions occur.

I understand that environmental groups may propose an export tax on log exports from private lands as a preferred funding source for economic adjustment assistance. Irrespective of our unions' broader view on exports, we cannot agree with this proposal as an alternative funding source to timber sale receipts. The purpose of such a tax would be to discourage log exports, not raise money for economic assistance. Whether either purpose could actually be achieved depends upon complex market, trade and monetary policy factors that are far too difficult to predict. Therefore, there is no certainty of available funding for dealing with the economic dislocation that will occur. Further, the export tax notion has no relationship whatsoever with annual timber sales from federal lands -- the deciding factor when it comes to economic dislocation.

The funds would be distributed in the form of grant and benefit payments by a three-member commission appointed by the governors of California, Oregon and Washington. The commission would, in turn, receive advice from a nine-member advisory panel, with each governor appointing a member from the forest products industry, a member from organized labor, and a member from the

general public.

It is our view that the commission and its advisors will be in the best position to make the wisest possible investments of limited federal funds in a fashion that does the most good for affected workers and timber dependent communities. The grants and benefit payments paid from the fund to eligible communities and workers would fall into five general categories.

First, H.R. 2463 would assist eligible communities to achieve economic diversity and diminish dependency on forest products from the spotted owl forests and districts. However, it would not attempt to specify the opportunities for economic diversification, and particularly not direct the development of secondary manufacturing facilities in the forest products industry as would the Vento bill. Communities need to explore a wide variety of options to preserve the economic foundation. H.R. 2463 recognizes that fact, along with the need to deliver funds in an expeditious fashion. The key to saving plants, restructuring them or going to alternate products is to make a feasibility study money available as early in the process as possible.

Second, H.R. 2463 would provide short term and longer term skill upgrading, retraining and adjustment assistance to eligible workers. More specifically, it would engage existing delivery systems at the state level to try to retrain workers for real

jobs. We do not believe that the types of jobs suggested in Rep. Vento's legislation represent genuine opportunities for skilled and semi-skilled mill workers who have invested a considerable amount of their lives in learning their trade.

Based on our long experience with the Department of Labor JTPA programs we do not believe that a comprehensive worker training program for forest industry workers can or should be funnelled through this mechanism. JTPA is slow to respond to discretionary grant proposals. Its emphasis is on short term training and job placement -- not long term skill upgrading, and finally JTPA does not allow expenditures for income supplements and health coverage.

Third, H.R. 2463 would supplement unemployment insurance benefits and extend the income maintenance payments for eligible workers whose eligibility for unemployment insurance benefits is exhausted and who are enrolled in bona fide training or education programs. I would note that there is nothing in either the Jonts or Vento bills which speaks to this need, even though it will be essential for people seeking new employment, and for those involved in retraining programs.

Fourth, H.R. 2463 would provide base level health care insurance for eligible workers and their family members who are enrolled in bona fide training or education programs. Here again, other proposals do not include this essential need. The

provision of reasonable health care is a fundamental need for the people who will be disadvantaged by whatever public lands proposal that Congress finally endorses. Therefore, we could not support any bill that does not include the provision of base level health care insurance coverage as people transition into new positions.

Finally, we recommend defraying job search expenses and relocation expenses for eligible workers. Such a section was also included in Rep. Vento's bill, which, with a few modifications, we could support.

We also recommend specific criteria for both communities and workers to qualify for economic assistance. With respect to communities, they must: (1) be determined to be economically dependent on a spotted owl forest or district; and (2) have an associated wood products plant which closed or reduced its work force by a certain percentage within the prior two years and remains closed or continues with such reductions of force upon enactment of the legislation, or closes or reduces its work force after enactment of the legislation and remains in that condition.

To be eligible for benefit payments, a worker must: (1) have been in employment related to wood products or timber harvesting; and (2) have been terminated or laid off within two years before and be unemployed upon the enactment of this legislation, or be

terminated or laid off after the enactment of the legislation and be unlikely to return to that employment thereafter.

Alternatively, a "secondary" worker must have been employed or self-employed in an occupation not directly related to wood products or timber harvesting in a community as defined above and be presently unemployed. We believe that the provisions of economic assistance must be extended to the indirect and induced job loss situations that this bill or any other bill would create.

Overall, the Carpenters Union believes that this legislation represents our best hope for achieving a lasting solution to old growth/spotted owl controversy. The bill provides adequate protection for those who must suffer the economic consequences of environmental protection and would add a solid measure of certainty which both the industry and the workers desperately need.

On behalf of timber and other wood workers throughout the U.S., I urge you to support the Forest and Families Protection Act. Thank you.

**STATEMENT FOR THE RECORD
OF
TED RABERN
BUSINESS REPRESENTATIVE
LOCAL # 2949
UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA
BEFORE THE
SUBCOMMITTEE ON FORESTS, FAMILY FARMS AND ENERGY
COMMITTEE ON AGRICULTURE
OF THE
UNITED STATES HOUSE OF REPRESENTATIVES**

May 30, 1991

Good morning. My name is Ted Rabern and I am Business Representative and Financial Secretary of Local # 2949 of the Western Council of Industrial Workers, affiliated with the United Brotherhood of Carpenters and Joiners of America, AFL-CIO. My local union, based in Roseburg, Oregon, represents more than 3,000 lumber and sawmill workers employed in the forest products industry. I appreciate this opportunity to testify today on behalf of my membership in the great state of Oregon and particularly to speak for the thousands of timber workers and their families in the Pacific Northwest whose fate hangs in the balance -- whose lives are intertwined with the forests in our region.

Mr. Chairman, I am here today to express my union's support for the Forests and Families Protection Act, H.R. 2463. Our international union has helped develop this important legislation and we believe that it deserves the support of this subcommittee.

The timber industry is the state's largest, employing more than 110,000 Oregonians. What we do in the Northwest -- better than any other region in the United States -- is produce wood products. Oregon is the nation's number one producer of lumber and plywood. The Northwest provides more than 30 percent of all lumber materials used in the U.S. That's a lot of wood. It means raw materials to build and furnish the homes in which you live, pulp products such as diapers, toothpaste and coffee

filters and of course, the newspapers you read each morning. According to 1988 Department of Commerce figures, over 607,000 U.S. workers are employed in the forest products, pulp and paper industry. These workers include loggers, sawmill, plywood and pulp and paper mill workers. When allied industries such as furniture framing and pre-fabricated wood structures are included, the forest products industry supports over 1.6 million workers.

Federal timber program benefits provide the economic foundation and physical infrastructure which supports rural communities in Oregon and other Northwest states. Programs provide funds for public schools, road work and essential government services. The Forest Service timber sale program, for example, provides the raw material for thousands of jobs, millions of dollars in community infrastructure and millions in federal payments to local communities. In 1990, \$264 million in federal receipts were returned to Oregon local governments in lieu of taxes.

Our communities suffered through some 39 mill closings in 1990, at a loss of over 3,500 jobs. Another 49 mills have curtailed operations recently, which cost 2,450 jobs. It is estimated that for every four millworkers displaced, an additional logger is put out of work. In my home of Roseburg, at the Roseburg Forest Products Sawmill Two, some 150 workers are

wondering what will become of them. We've received 60 day notification of permanent closure. This comes in addition to some 200 workers who have been out of work for the last six months, due to the plague of partial shutdowns. That means 350 families from my local alone whose lives have been torn apart, who are waiting for Congress to come up with a solution that addresses their needs.

Too many mill towns in our state have become ghost towns, haunted by the quiet of stalled machines that once hummed productively. Our state officials list 158 of our communities as "timber dependent."

Our timber workers are among the most productive workers in the country and they respect the forests they live and work in. They have a deep commitment to family, community and country. As one logger put it, "I don't want to see any species extinct, but I don't want to see my job or me extinct either." They're not asking for unemployment or a handout-- they just want to keep their jobs and their self-respect.

In 1989, an estimated 76,000 Oregonians were employed in the wood products industry and another 15,000 were employed as independent log and chip truck drivers and other primary wood product occupations. According to the Research and Statistics Division of the Oregon Employment Division, as of March 1991,

only 55,000 workers were employed in the forest products industry and some 16 percent are unemployed. If we assume that the base line unemployment figure is anywhere near 16 percent, then the additional unemployment which would result from bills introduced by Representatives Jontz and Vento would reach crisis proportions. The economic adjustment programs within these bills fall far short of the mark and don't begin to address the magnitude of unemployment we would face. What our workers want and need are productive jobs which contribute to the regional and national economy.

Timber workers are special people. In fact, a University of Washington sociologist, Professor Robert Lee, has testified that the "traditional American values of independence, hard work, risk-taking and inventiveness " characterize timber workers, and these traits make it especially difficult for them to adjust. They are not as mobile as urban workers, says Dr. Lee, who spent five years studying timber communities in the Northwest.

Lee warns of family problems, substance abuse, even suicide. It's already happening. A 60-year-old member of our union from Coquille, Oregon, recently lost his job due to the permanent closure of the plant he had worked at for over two decades. He suffered from severe depression and despair that comes from joblessness. After several months of frustration, he put a rifle in his mouth and pulled the trigger.

Dr. Lee says older workers will suffer the most.

Unfortunately, it will probably be those people who have devoted their entire lives to the trade, people who have always called the forest their home as well as the source of their livelihood, who will suffer the greatest hardship. Roseburg residents and others worry that unemployment from halting logging on public lands for any sustained period would increase alcohol and drug abuse and break up families.

Dr. Lee put it well, when he told lawmakers in Salem that "people aren't marbles who simply roll across the table and fall into the proper slots." Mr. Chairman, this is a very serious game of marbles, one in which votes are cast and then tens of thousands of the players are supposed to pack up their marbles and go home. Our homes may not be there, our families may not survive, our children won't find jobs in their home state and our future won't be in our hands -- it is in yours.

My members in Roseburg, the county seat for Douglas County, asked me to bring that message to you today. Roseburg grows more trees than any other county in the United States and depends on timber for two-thirds of the county government's revenue. Already, some people there who depend on timber workers to support their businesses are pulling up stakes.

So, does timber supply affect autoworkers in Detroit, construction workers in the West, paper mill workers in New England? Yes, we're all players in that same marbles game, we're all affected by projections like the one that claims lumber prices could conceivably double by the year 2000 and price us all out of the housing market.

All of the numbers I have given you, statistics without faces, figures without names, don't even begin to address the huge economic effects of proposed cuts in timber supply. If I could have brought some of these workers with me and asked them to speak to you today and share what they tell me everyday, express their concerns to you directly, I would have. My hope is that I've carried their message effectively and that you'll hear their voices when you consider enacting timber supply legislation, you'll consider their needs along with the needs of the environment. Because, after all, timber workers and their families are the endangered species here as well.

The focus of ongoing debate has been protection of the northern spotted owl and there is momentum now for further preservation of old growth forests. But the issue is not whether the spotted owl and old-growth should be protected, but rather how to accomplish these goals while preserving the jobs and

communities that depend on the continued harvesting of timber on public lands in the region. The needs of timber workers must be considered along with the needs of the environment. Workers and their families face hardships ahead that are more dangerous than the saws, cables and other heavy equipment that make their jobs in the timber industry the most hazardous in the country.

Our union has been involved in ongoing efforts to save our communities which led to the introduction of H.R. 2463. Mr. Chairman, we appreciate your efforts to seek a solution to this difficult issue. As we have previously, we pledge again today our continued support for efforts to resolve this crisis. We believe our proposal provides the framework for a legislative solution which reflects the interests of all concerned parties.



American Forest Resource Alliance

1250 Connecticut Avenue, N.W., Suite 200
Washington, D.C. 20036
Phone (202) 463-2747 • Fax (202) 463-2708

Chairman
William Shields
Willamette Industries

Vice Chairman
Bruce Engel
WTD Industries

Harold Airington
Georgia-Pacific Corp.

K. David Hancock
Hancock Lumber Co.

STATEMENT FOR THE RECORD

OF

MARK REY

EXECUTIVE DIRECTOR

AMERICAN FOREST RESOURCE ALLIANCE

BEFORE THE

SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENERGY
COMMITTEE ON AGRICULTURE

OF THE

UNITED STATES HOUSE OF REPRESENTATIVES

MAY 30, 1991

46-674 1596

I. Introduction

Good morning. My name is Mark Ray. I am the Executive Director of the American Forest Resource Alliance, based in Washington, D.C. I appreciate the opportunity to appear before the Subcommittee to elaborate on H.R. 2463 the "Forest and Families Protection Act of 1991," described by the previous panel. Accompanying me today to assist in responding to questions are Dr. James Sweeney, the Alliance's Manger of Wildlife Programs, and Dr. Robin Reich, a Professor of Biometrics at Colorado State University.

The Alliance is a coalition of companies, workers, organizations, community action groups, and individuals that are dedicated to the highest quality of management and perpetual renewal of our nation's forests. Many of our members are operators, workers, or others who depend on the forests of the Pacific Northwest and northern California, including federal, state, and private lands. These forests provide the raw material to run sawmills, plywood plants, and pulp and paper mills that provide numerous products key to our nation's needs. Our members are tremendously impacted by continuing restrictive developments in the old growth controversy and its surrogate, the listing of the Northern Spotted Owl.

Usually I appear before you to describe problems that trouble our members. Today, however, I am here to talk about a solution -- H.R. 2463.

I would like to focus specifically on Titles I and III of H.R. 2463, and as a predicate for elements of the proposal, I would like to present definitive evidence that the spotted owl and old growth are two separate issues. It was only by separating the two that we were able to frame the reasonable resolution to both of them represented in Titles I and III of H.R. 2463.

However, due to the nature of the owl's surrogacy, we have been trying to manage spotted owls using prescriptions for old growth. We have been doing a poor job at both, accomplishing nothing but further polarization and heightened controversy. But I believe that the information I am presenting for the record today shows that we have the opportunity to manage for spotted owls in a manner compatible with continued forest harvesting, thereby helping to defuse the controversy and minimize social and economic impacts. Given this management flexibility, we can also responsibly address the concern for preservation of unique segments of our ancient forests. The bill before you is the legislative representation of these biological, on-the-ground facts, and is an important first step in regaining control of this run-away issue.

II. Background

First, let me briefly review how the two issues became so thoroughly entwined and confused that they became one and the same. The original research on the spotted owl was conducted in the 1970's under the Forest Service's Old Growth Forest Ecosystems Research effort. As a result, these initial studies were conducted on federal forests which had experienced significant timber harvesting in only the relatively recent past. The study areas for this research were characterized by old growth forests (typically over 150 years old) or very young stands (less than 30-40 years old).

In comparing habitat use by spotted owls, researchers concluded that spotted owls consistently used old growth forests more than the very young stands. But this is not surprising. To illustrate with a homely example, if any of us here today were given the choice of sleeping in a king size bed or on a rock slab, we would probably consistently prefer the bed over the slab. Missing from the literature on the Northern Spotted Owl was an investigation of a complete continuum of potential owl habitat -- forest age classes in the 40 to 150 year old range. This is because these age classes are found almost exclusively on industry lands. Today, the industry has conducted this research, and we know that those age classes represent a complete array of comfortable beds from queen size to individual cots.

Unfortunately, through the 1980's, the fact that the initial research represented such a truncated comparison of extremes was almost forgotten. What remained was only part of the conclusion -- that spotted owls prefer old growth -- leading to the misconception that spotted owls require old growth. Thus, we now had the two issues -- spotted owls and old growth -- inextricably combined.

This truncation of the original conclusions unfortunately led to a narrowing of subsequent research. During the late 1970's and early 1980's, virtually all research emphasis was placed on spotted owls living in the old growth ecosystem. Moreover, it was not until the late 1980's that researchers began to investigate owl use of non-old growth habitats. Finally, it was not until 1989 that any substantial survey work was conducted on industry lands.

III. Separating the Spotted Owl and Old Growth Issues Provides the Flexibility to Explore Different Management Solutions that Are Environmentally and Socially Acceptable.

I would like to present two key points that form the basis of our ability to disconnect these two elements of the existing controversy. By separating and clearly defining these two elements, we gain greater management flexibility to successfully address each one. That management flexibility is reflected in H.R. 2463. First, I will present a set of statistical reviews

that point out the inherent weaknesses in the data, assumptions, and conclusions in the key document that supported the listing of the Northern Spotted Owl as threatened (the Fish and Wildlife Service's Listing Status Review). The Interagency Scientific Committee's Conservation Strategy, and the more recent Fish and Wildlife Service Critical Habitat Proposal suffer the same: (1) scarcity in data; (2) narrow (and off target) assumptions; and (3) ill-conceived conclusions. All these documents draw from the same body of research, and use the same data base. Second, I will present a summary of new data that corroborate the revised view suggested by the statistical reports on spotted owls, their habitat, and their management.

A. Recent Statistical Reviews of the Fish and Wildlife Service's Listing Analysis Indicate that there is No Statistically Significant Basis for Determining the Suitable Habitat of the Northern Spotted Owl.

At our request, three separate statistical reviews of the data and conclusions in the Fish and Wildlife Service's "1990 Status Review, Northern Spotted Owl, *Strix occidentalis caurina*" by Anderson et al. were conducted by two forest biometricians, and one wildlife biostatistician. These scientists are experts in the application of statistics to forestry and wildlife data analyses. Dr. Reich, here with me today, conducted one of these reviews. The others were conducted by Dr. Edwin Green of Rutgers University and Dr. Steven Sheriff with the Missouri Department of Conservation.

Rather than repeating their findings in detail, I will simply incorporate them by reference into today's testimony by submitting them for the record. I will instead provide a brief summary of several salient points.

The level of detail provided in the three statistical reviews varied from a general discussion of statistical paradigms, to a very detailed examination of all Fish and Wildlife Service analyses and assumptions and their interpretation. While the level of detail varied, they all agreed on the key points, and had no disagreements.

All three biometricians agreed that the 1990 Status Review failed to provide proof that the spotted owl is a species dependent on old growth forests. Additionally, all three pointed out numerous problems with the 1990 Status Review's analyses of habitat use by the spotted owl. As Dr. Sheriff noted, "Given these problems, all information ...concerning home range and habitat analysis is suspect for statistical analysis errors and misinterpretation. The reasonable conclusion that can be drawn from [these data] is that spotted owls use old-growth forests as well as other types, such as mature, young, pole/sapling, mixed age, riparian, and other forests. However, we cannot go much beyond this simple statement."

All three biometricians noted that the studies on home ranges were not adequate, and that there were numerous important sources of errors and limitations in using radiotelemetry to determine habitat use. These limitations, in turn, led to major problems with interpretation of home range and habitat analysis studies. As one of the forest biometricians, Dr. Reich, stated "... the statement [in the 1990 Status Review] that '...the northern spotted owl requires large tracts of land containing large amounts of old growth and mature forest to satisfy their life history requirements...' is somewhat misleading. Clearly, the range of spotted owl habitat depends on many factors not considered in the 1990 Status Review."

All three biometricians also clearly point out that the data provided in the 1990 Status Review do not support a complete ban on harvesting in spotted owl habitat, but instead indicate that there is evidence to suggest that "...the continued survival of owls is not incompatible with some forms of silviculture" (Green 1991). Reich (1991) concludes that "The research suggests that there are numerous opportunities to improve the habitat of the northern spotted owl. With proper planning and execution... timber stands can be manipulated to provide needed forage and cover for the northern spotted owl..."

Two of the statistical reviewers also raised two additional key points. First, the 1990 Status Review incorrectly concludes

that wilderness areas constitute owl population sinks. The conclusion that spotted owl populations could probably not be supported in wilderness areas or national parks is not supported by the analysis or the evidence presented. Secondly, the authors of the 1990 Status Review failed to indicate what statistical tests were used to analyze the data, and often failed to provide statistical estimates of error associated with the measurements reported. Thus, it is difficult to determine if many of the trends presented had either statistical or biological importance.

In summary then, as Dr. Green put it "there appears to be room for alternative interpretations of some of their findings."

- B. New Data -- Collected for the Most Part on Industry Lands Over the Past Three Years -- Corroborate the Suggestion that Spotted Owls Occur and Successfully Breed in a Much Wider Array of Habitat Types than Previously Assumed.

What I would now like to present is the second half of the equation -- a summary of the new research that shows that: (1) spotted owls are more numerous than previously expected; and (2) they occur and successfully breed in a much wider array of habitat types than previously assumed. Like the statistical review just discussed, these new studies show that many of the baseline assumptions and conclusions in the 1990 Fish & Wildlife Service Status Review and the ISC Conservation Strategy were inaccurate.

Nons of this new information, however, was considered in the Fish and Wildlife Service's latest assault on the Pacific Northwest, the Agency's Critical Habitat Proposed Rule. To build a land management prescription (such as critical habitat designation) on the further extension of flawed conclusions without even considering the current literature on the topic is professionally inexcusable. However, I digress. The issue here is not the failure of the Fish and Wildlife Service to do its job, but the way in which these data provide Congress more flexibility in doing its job.

Again, rather than taking the Subcommittees's time to review all 15 of these studies, I will simply incorporate them into the hearing record by reference, and proceed to summarize the most important, new facts. These new studies show:

- spotted owls occur in habitats previously considered unsatisfactory (Schreiber 1990, Zabel and Noon 1991, Beak Consultants Inc. 1991, Miller et al. 1991) thereby extending the definition of "suitable habitat" to younger, managed stands.
- the importance of using correct model form and parameters in predicting population growth rates (Meyer and Boyce 1991) thereby challenging the life history

tables used in population forecasting in the previous decision documents.

- the lack of correlation between forest fragmentation and spotted owl site selection (Mayer et al. 1990, Zabel and Noon 1991) thereby minimizing forest fragmentation as a concern.
- the silvicultural production of spotted owl habitat (Irvin 1990) thereby providing a scientifically credible process for increasing the level of compatibility between forest management and the well-being of spotted owls.
- the total lack of any data, empirical or theoretical, that spotted owls are declining or threatened with extinction (Boyce 1991) and problems in sample design for previous population estimates (Irvin and Stout, in press), thereby eliminating any biological claim that the spotted owl is imminently threatened.
- the successful reproduction of owls in managed forests 60-80 years old with less than 10% old-growth in the area (Miller et al. 1991) thereby documenting that: (1) spotted owls can not only live, but successfully

reproduce in non-old-growth habitats; and (2) old-growth is not required for spotted owls.

- home ranges of spotted owls in managed forests (as above), and the fact that they actually may be smaller than those in adjacent old-growth forests (Miller et al. 1991), thereby suggesting that managed forests may be better habitats (provide all of the needed life requirements in a smaller area).
- the fact that demography (population structure, reproduction rates, etc.) of spotted owls in wilderness is no different from that of owls in forests that have been subjected to varying levels of management (Irwin et al. 1991), thereby eliminating the claim that wilderness areas do not contribute to spotted owl populations.

These studies represent only a part of the new data available since the publication of the ISC Conservation Strategy and the 1990 Fish and Wildlife Service Status Review. Both of those documents include only data obtained from 1989, or earlier owl surveys and research. Absent from the above summary are data collected by individual forest industry companies conducting 1991 owl surveys in compliance with the Fish and Wildlife Service's

Interim Guidelines, and recent (1990 & 1991) data from both the BLM and Forest Service.

These surveys are uncovering extremely significant results. For example, one landowner has already found 15 new breeding pairs of owls on his land (40- to 60-year old managed forest) after completing only one month of this year's survey season. The 1990 results from BLM surveys increased their total owl count in Oregon by 135 pairs. That is a 20-25% increase in 1 year! A preliminary summary of the last three survey seasons indicate that there are more than 518 breeding pairs of spotted owls in western Oregon, with more than 100 new sites in northern Oregon alone.

Current, conservative estimates of only those spotted owls that affect private land (occur on private land, or on adjacent public land such that their management circles overlap onto private land) include over 500 pairs in California, over 400 pairs in Oregon, and over 300 pairs in Washington. If we agree with the statement in both the ISC Conservation Strategy and the 1990 Status Review that -- by far the majority of remaining spotted owl habitat occurs on federal lands -- we should be able to assume that federal lands support at least an equal number of pairs of owls. Thus, we now have a conservative estimate of pairs of owls (over 2400 pairs) that exceeds the recovery target

specified by the ISC Conservation Strategy (2169 pairs) for the future "when the habitat is fully recovered."

IV. The Forests and Families Protection of 1991 Makes Use of the Above New Information on the Northern Spotted Owl to Frame a Reasonable Solution to the Old Growth Controversy and the Needs of the Northern Spotted Owl.

I have now given you two different sources of information to demonstrate that the spotted owl and old growth issues are separable and, thus, solvable. This information will be provided to the Fish and Wildlife Service during the comment period on the current critical habitat proposal. The data will also be presented to the Department of the Interior Recovery Team as it works to develop a recovery plan for the Northern Spotted Owl.

Certainly, as these and even more data are provided, our knowledge about the Northern Spotted Owl will increase. I am confident that our management flexibility will increase accordingly.

Given this information, it would be ideal if we could depend upon the Recovery Team to fashion a reasoned solution that is both environmentally and socially acceptable to deal with the needs of the Northern Spotted Owl and the working people of the Pacific Northwest. However, this type of solution will not, alone, solve this controversy.

First, we have a pending court injunction which essentially shuts down the Forest Service's timber sale program in the spotted owl regions. It appears that Judge Dwyer found it impossible to separate the spotted owl and old growth issues in his own mind. Therefore, he offered some rather unfortunate and dramatic recommendations in his lengthy, politically-charged decision last week.

Moreover, even if we can develop a more flexible management program for the Northern Spotted Owl through the recovery process, we still must face the controversy over the protection of old growth values. This controversy will not go away even if we are successful in developing a reasonable Recovery Plan for the owl.

Therefore, the issue clearly before this Subcommittee is how to deal with the spotted owl and old growth controversies in what we hope will be a reasoned fashion. As we looked at these two issues, we came to the following conclusions which are reflected in the structure of Titles I and III of H.R. 2463.

A. A Short-Term Bridge to the Recovery Plan Is needed to Assure the Well-being of the Northern Spotted Owl.

With regard to the Northern Spotted Owl, the question is not whether we have all of the information necessary to develop a long-term program for the conservation of the owl. I would

submit that we clearly do not have this information. However, it will be incumbent upon the Recovery Team to use as much of the rapidly-increasing information base as possible in developing the best program for the recovery of the species. We recommend that Congress defer to the existing Endangered Species Act recovery process as the best way to develop a long-term program to assure that the needs of the Northern Spotted Owl are met.

If this is a reasonable suggestion, then the only task squarely before Congress is to develop a valid short-term program that does not jeopardize the Northern Spotted Owl while the Recovery Plan is being completed. This is essentially the issue that we addressed in developing Title III of H.R. 2463. In Section 305 our interim program provides protection for those areas that are clearly the best spotted owl habitat. Additionally, Section 306 enhances the normal Endangered Species Act consultation process between the Fish and Wildlife Service, and the BLM and the Forest Service.

We believe that it is unlikely that, after consultation, the BLM or the Forest Service will do anything that would jeopardize the long-term survival of the owl during the short period represented in the Title III interim program. The long-term recovery of the species will be determined by the provisions of the Recovery Plan. Based on the data that I have already shared with you, it is our expectation that the Recovery Plan for the

owl will be substantially more flexible and sensitive than either the ISC Conservation Strategy or any of the Fish and Wildlife Service documents released to date.

B. The Value of Old Growth Ecosystems Must be Reflected in the Management of Our Public Lands in the Pacific Northwest.

With respect to the old growth issue, we have set out in Title I of H.R. 2463 to establish a process through which old growth can be reflected as an integral multiple use value in the management of our public lands. We have attempted to integrate the preservation and management of old growth ecosystems into the land management planning processes established by Congress in the National Forest Management Act of 1976 and the Federal Land and Policy Management Act of 1976.

Therefore, we provide only interim protection in Title III of H.R. 2463 to certain areas of large, unfragmented old growth. We then leave it to the BLM and the Forest Service -- after appropriate public review -- to establish an Old Growth Reserve through revisions to their land and resource management plans. In establishing this Old Growth Reserve, we direct the agencies to: (1) zero-base their land management plan revision process; and (2) evaluate the full land base before they set up the Reserve. We believe that this approach is consistent with the philosophy articulated earlier by Dr. Franklin.

In addition, we provide the agencies with the flexibility to prescribe some degree of active management within certain components of the Old Growth Reserve. We believe that the prospect of active management within the Reserve is supported by the limited available data cited by Dr. Franklin and others. However, in Title III (Section 308) we also provide mechanisms for additional research, data collection, and the development of silvicultural techniques. Through this program we wish to assure that we have the information necessary so that management can be consistent with the maintenance of old growth values and the associated plant and animal communities.

V. SUMMARY

H.R. 2463 is a proposal that reflects the newest data available on both the needs of the Northern Spotted Owl and the opportunities to protect and manage old growth forest ecosystems in the Pacific Northwest. In many respects H.R. 2463 is a biologically driven proposal, providing the Forest Service, BLM, and the Fish and Wildlife Service with only the necessary guidance to harmonize the sometimes conflicting requirements of the existing statutory framework.

We believe that H.R. 2463 represents an appropriate measure of congressional direction. It involves Congress in providing the agencies with sufficient direction to do their jobs without

trying to usurp the responsibilities and the technical prerogatives of the expert land and wildlife management agencies. We urge Congress and the Subcommittee to act favorably on this proposal, and to move forward to resolve the two conflicts that have been confounding the management of our public lands and the protection of the Northern Spotted Owl.

Thank you for the opportunity to testify today. I am happy that for once I was able to bring you something in the nature of a solution, rather than merely citing a problem. That completes my prepared remarks, and I will be happy to answer any questions that members of the Subcommittee may have. To the extent that these questions turn on some of the more technical aspects of my testimony, I may draw upon the expertise of Dr. Sweeney and Dr. Reich to assist me.

(Attachment follows:)

RECENT LITERATURE ON NORTHERN SPOTTED OWLS

Schreiber, B.P. 1990. Spotted Owl survey of State lands in Western Oregon. Final Rep., Oregon Dep. Fish and Wildlife, Corvallis, OR. Flora and Fauna, 30564 Oakview Dr., Corvallis, Or. 63 pp.

Describes surveys for owls on state forest lands in western Oregon, in which 33 sites covering about 50,000 acres were intensively surveyed for Spotted Owls. Sixty-four positive responses were detected, representing 10 pairs and 3 single owls. Six of the pairs reproduced, fledgling 10 owlets, or about 1.7 fledglings per pair that reproduced. Presence of owls at 13 of 17 sites with prior observations of owls was encouraging. Clearcut logging had occurred near 10 of the historical locations, and owls were found at 6 of those. Sites examined included the Santiam Forest, Elliott Forest and Tillamook State Forest.

Meyer, J.S., and Mark S. Boyce. 1991. Life historical consequences of pesticides and other insults to vital rates. Proc. Popul. Ecology and Wildl. Toxicol. of Agric. Pesticide Use: A Modelling Initiative for Avian Species.

Includes information on population influences in Northern Spotted Owls and other species of birds. Variation in per capita growth rates will be greater for populations in which survival or reproduction has been suppressed. Populations tightly regulated by density-dependent mechanisms may be more sensitive to nonlinearities and age-specificity of density dependence than to demographic structure. Results may guide researchers in allocating effort in demographic studies on avian species, confirming the importance of adult survivorship to population growth rates in long-lived birds such as spotted owls.

Harestad, A.S. 1990. Nest site selection by northern flying squirrels and Douglas squirrels. Northwest. Natural. 71:43-45.

Describes tree height and aspect relative to nest site selection by two squirrel species in coastal western hemlock forest. The investigator used nest boxes as a means of testing for site differences. Twenty-two nest boxes were used by northern flying squirrels. The information may be useful to managers wishing to improve habitat for Northern Flying Squirrels, which are important prey for Northern Spotted Owls.

Meyer, J.S., L.L. Irwin, and M.S. Boyce. 1990. Influence of habitat fragmentation on spotted owl site selection, site occupancy, and reproductive status in western Oregon. Progr. rep., 2430 Travis Court, McKinleyville, CA 95521.

Describes a statistical comparison of occupancy of owls relative to several indices of forest fragmentation on 50

randomly selected owl sites and 50 random landscape sites on Bureau of Land Management land in western Oregon. Forest fragmentation did not have any significant correlative effect on site selection by spotted owls. Only 1 of 7 indices to forest fragmentation showed any correlation with site selection by Northern Spotted Owls. The percentage of old-growth forest was greater at random owl sites than at random landscape sites (31.5% vs. 10.6% within a 0.5-mile radius). Variables that were significantly correlated with the discriminant function included patch size of older forest habitat. The authors tentatively concluded that the habitat within a 0.5-mile radius has the strongest statistical relationship with occupancy by Spotted Owls. On BLM lands, the average amount of suitable habitat in occupied owl sites is just over 150 acres within a 500-acre area.

Ganey, J.L. 1990. Calling behavior of spotted owls in northern Arizona. *The Condor* 92:485-490.

The calling behavior of radio-tagged Mexican Spotted Owls was examined in northern Arizona. Calling activity increased from March through May, then declined from June through November. Calling bouts were longer when other owls were calling. Differences in calling rants among owls suggest that not all owls will be equally detectable using calling surveys.

Sabel, C.J. and B. Noon. 1991. Demographic parameters of the spotted owl at Coos Bay BLM District in southwestern Oregon. *Ann. Prog. Rep., Pacific Southwest For. Range Expt. Sta., Redwood Sciences Lab, 1700 Bayview Dr., Arcata, CA 95521.*

Data are reported on survival and reproductive rates on populations in different forest stands with varied amounts of fragmentation and a range of stand ages. The investigators are monitoring responses to habitat changes such as timber harvest in three resource areas on the Coos Bay BLM District.

Beak Consultants Inc. 1991. Spotted Owl studies, Clemons Tree Farm, Grays Harbor County, Washington. 1990 Progr. Rep., Kirkland, WA 98034.

Reports surveys for northern Spotted Owls in the Blue Mountain area's Clemons Tree Farm. Also, the report presents radio tracking information conducted as a case study for one spotted owl male in the young forests of the area. A male spotted owl responded on 9 occasions during 27 survey trips; a female responded on 5 occasions. A male barred owl was detected on 2 occasions. Spotted Owl occupancy was documented in a site where only a single bird had been known to occur since 1982 in a forest that normally would be considered "unsuitable".

Irwin, L.L. 1990. An active process for conservation of northern Spotted Owls. Unpubl. rep., NCASI, Corvallis, Or.

Suggests that silvicultural production of owl habitat is possible, as evidenced by increasing observations of owls in forests that have been managed in the past. Documents a reliable scientific process that could increase the level of compatibility between forestry and spotted owls. The process requires that more than one landscape alternative be implemented and compared simultaneously, by monitoring spotted owl behavior and population responses.

Boyce, M.S. 1991. Comments on the Northern Spotted Owl: A status review supplement. Dep. Ecology and Physiology, University of Wyoming, Laramie.

This commentary notes that the Status Review Supplement is misleading as it relates to population size among Spotted Owls, such that a popular account is that only 1500 pairs of owls exists. Existing demographic data, also do not allow us to conclude that the Northern Spotted Owl is declining. However, in areas where habitat loss is significant, accurate estimates probably would show a population decline reflecting the rate of habitat destruction. It is essential to recognize that this has no bearing whatsoever on the demography of the population in the future, and cannot be used to imply that the subspecies is doomed to extinction without assuming that habitat loss will continue indefinitely. The implication that an exponential growth model may be used to project the probability of extinction for the Northern Spotted Owl has no empirical basis, and is counter to the simplest principles of population dynamics. When one considers the statistical reliability of these results, one must conclude that at this time, there is no empirical or theoretical evidence from population viability analysis that the Northern Spotted Owl is threatened with extinction. The author is not implying that the owl may not be threatened; rather, he has yet to see a population viability analysis that makes such a case with any statistical reliability. The Status Review team should be very cautious in using population-based evidence to justify threatened status for the owl.

Irwin, L.L. and B.B. Stout. (in prep.) Simulated sampling of northern spotted owl densities.

Describes a computer simulation study that compares estimates of owl density for different-sized sample plots and different population densities. The simulation suggested that previous recommendations for sizes of sample area sizes to arrive at estimates of population density are probably inappropriate. The optimal method for determining owl population density includes sampling within numerous plots, rather than a single density study area. This procedure will allow investigators to calculate confidence intervals and optimize allocation of sampling effort, so as to increase reliability of estimates without increasing cost.

Miller, G.P., D.F. Rock, and L.L. Irwin. 1991. Status of the Spotted Owl on the McKenzie Resource Area, Eugene District, Bureau of Land Management--a Progress Report. USDI, Bur. Land Manage., Eugene, OR.

Reports survey data and preliminary information from radio-tracking of Spotted Owls in forests that are primarily 60-80 years old, with less than 10% older forest. Fourteen pairs of owls are known to exist in the area, whereas only 3 sites were known to be occupied before the study began. Five pairs of these owls produced 9 fledglings in 1990, in a forest condition that approximates a fully-regulated forest. Radio tracking information from 8 individual owls with sufficient information suggested that some ranges in such managed forests may be smaller than found in adjacent old-growth forests on National Forest land, averaging about 1300 hectares. Habitat use data suggest that owls avoid clearcuts and brush/sapling seral stages, and use 20-39 year-old forests less than availability. Three spotted owls showed a statistically significant "preference" for 40-59 year-old forest, 3 used such forests in proportion to availability, and 2 showed use less than availability. This information marks, for the first time, significant use by owl pairs in a managed forest mosaic in western Oregon. The work is cooperatively funded and conducted.

Irwin, L.L., S.K. Martin, T.L. Fleming, and J.B. Suchanan. 1991. Demography of spotted owls in managed and unmanaged forests on the east slope of the Cascade Mountains, Washington. 1990 Annual Report, NCASI, Corvallis, Or. 23pp.

This report provides preliminary information from a cooperative USFS/NCASI study that is comparing the population and habitat dynamics of spotted owls in managed and unmanaged forests. In unmanaged forests such as wilderness areas and roadless areas, field crews monitored 41 sites, finding 56% occupied by pairs, compared to 60% pair occupancy in 43 sites subject to commercial forestry. Observers found 78% of the unmanaged sites occupied by at least 1 owl, compared to 72% for managed forests. Reproductive rates were identical for each land category, with about 0.9 fledglings per pair overall, and 1.7 fledglings per pair that reproduced. The authors caution that they still need information from habitat measures to make definitive conclusions. But they cannot conclude that demography by owls in wilderness and other unmanaged sites is different from that of owls in forests that have been subjected to various levels of forest management, which is contrary to conventional opinion that wilderness locations may contain insufficient habitat for spotted owls.



FORESTRY

STATEMENT FOR THE RECORD

OF

JAMES GEISINGER

PRESIDENT OF NORTHWEST FORESTRY ASSOCIATION

BEFORE THE

SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENERGY

OF THE

COMMITTEE ON AGRICULTURE

OF THE UNITED STATES HOUSE OF REPRESENTATIVES

MAY 30, 1991

I. Introduction

Good morning. My name is Jim Geisinger. I am President of the Northwest Forestry Association (NFA), headquartered in Portland, Oregon. NFA is a regional trade association representing the interests of 75 forest land owners and forest products manufacturers in Oregon and Washington. Our members are dependant upon publicly owned timber produced by the Forest Service and the Bureau of Land Management as a primary source of raw material for their mills. I appreciate the opportunity to testify before the Subcommittee.

As the preceding panel members -- especially Mr. Scott -- indicated in their remarks, over the past several months we have been working intensively with representatives of unions that represent our workers. We have been meeting to assess the prospects before us, and the possibility of a reasonable resolution to the current economic crisis facing workers in the Pacific Northwest and elsewhere. As Mr. Scott and his colleagues indicated, after prolonged deliberations we have arrived at a proposal to put before this and the other Subcommittees in the Congress with jurisdiction over these matters.

We offer this proposal outlined by Mr Scott as the framework for a solution to the present timber supply crisis. We

do not, as Mr. Scott indicated, mean to establish H.R. 2463 as one end of a political spectrum for comparison purposes with H.R. 1590 and H.R. 842.

Thus, I concur with Mr. Scott's view that H.R. 2463 is the only proposal currently on the table which addresses in a comprehensive fashion the old growth, Northern Spotted Owl, Endangered Species Act, timber certainty, and the worker adjustment elements of this problem. Neither H.R. 1590, nor H.R. 842, address all of these issues. In fact, the Jontz and Vento Bills do not address the Northern Spotted Owl/Endangered Species Act question at all, thereby providing at best only a partial solution to our present quandary. Rather than dwell in any detail on the shortcomings of H.R. 1590 and H.R. 842, I have attached for the record our detailed views on both of these proposals.

In the preceding panel, Mr. Scott provided you with an overview of H.R. 2463 and all of its components. Mr. Ray described specifically how the proposal deals with the biological aspects of the spotted owl and old growth issues.

What I would like to do is focus intensively on Title II of H.R. 2463. Title II deals with the problem of insuring the effectiveness of federal land planning measures. In some respects Title II is similar to H.R. 5094 -- The National Forest

Plan Implementation Act of 1990 -- introduced in the last Congress, and the subject of hearings before this Subcommittee on July 26 and 27, 1990. However, there are two important differences between Title II of H.R. 2463 and H.R. 5094.

First, H.R. 2463 is integrated into a measure that provides for the recognition of spotted owl and old growth values in the management of our public lands in the Pacific Northwest and northern California. Assuring implementation of revised forest plans will be as important to achieve spotted owl and old growth purposes, as it will be to assure predictability and stability of public land timber management and other programs. Indeed, the balance of H.R. 2463 is unworkable without some reasonable assurance of forest and resource management plan implementation.

Second, we listened closely to the criticisms of H.R. 5094 offered during last year's hearings. If you study Title II of H.R. 2463 closely you will note several significant differences between this measure and last year's proposal. What I would like to do in the balance of my testimony is describe these differences and the importance of the provisions in Title II of H.R. 2463.

II. Part A of Title II Provides Necessary Direction for Amending, Revising, and Monitoring the Implementation of Forest Service and BLM Land Management Plans.

An essential component for assuring that, whatever Congress does with this issue brings closure, is providing the agencies with direction to assure that resource management plans are a management framework for implementing congressional direction. Presently, the National Forest Management Act and the Federal National Policy Land and Management Act are deficient in providing the agencies with adequate guidance concerning amendments, revisions, or monitoring of land management plans. H.R. 2463 would rectify this problem and insure that congressional direction is implemented by the agencies in a logical fashion with predictable results.

First, Section 202 would establish a requirement that the agencies evaluate the impact of land management plan changes on the stability of locally dependant communities. This is primarily an analysis and disclosure requirement that is somewhat softened from the measure in H.R. 5094. It is also the central component of Congressman Smith's Bill (H.R. 1309) and is, therefore, a measure which has found substantial support within the Congress.

A new element of H.R. 2463 is found in Section 203. It is another analysis and disclosure requirement which directs the agencies to consider the impacts of land management plan changes

on the world demand for resources. This requirement is necessary in light of the Forest Service's failure to conduct such an analysis, either as part of the 1990 Resource Planning Act Program or at any other stage in the Agency's land management planning process.

In Section 204 of H.R. 2463, we have also retained direction to the agencies to try and maintain the balance of objectives and outputs in resource plans during plan amendments or revisions. This measure provides considerable agency discretion in trying to maintain a balance in resource management priorities. Nonetheless, it is useful because it directs the agencies to do more extensive resource trade-off analyses whenever they amend or revise plans. One important change from H.R. 5094, however, is the provision that the agencies must move immediately to implement court orders, even if they must work outside of the plan amendment or revision process to do so.

Section 206 requires the agencies to provide greater opportunities for public participation in the development of minimum management requirements. This provision will benefit all participants in the public land planning process.

Additionally, Section 206 directs the Forest Service and the Bureau of Land Management to develop a minimum management requirement for forest management. This is a most widely

misunderstood provision in both H.R. 5094 and this bill. We are not specifying any particular timber sales level that the agencies should target in developing revised plans. We are merely stating that, whatever level of timber production is indicated in the plan, the agencies have some commitment to meeting these output targets.

We believe that predictability in the implementation of forest plans -- particularly in light of the likely reductions caused by the need to protect the spotted owl -- is a goal which Congress should direct the agencies to achieve. A minimum management requirement for forest management is long overdue inasmuch as timber has become little more than a residual resource in the development of land management planning on the public lands.

We also have substantially modified the provision originally found in H.R. 5094 for phasing-in output changes. Originally, H.R. 5094 suggested that decreases in outputs should be phased-in on a strict percentage basis over a specified period of years. Section 207 of H.R. 2463 takes a much more balanced and flexible approach. First, phase-ins apply to both increases and decreases in forest plan outputs. Therefore, any increase in timber production must be phased-in. Second, we have made the starting point for the phase-in the output level in the most recent NFMA plan (in those regions where NFMA plans exist), rather than

historic output levels. Third, for the spotted owl forests, (where NFMA plans do not exist in any real sense) we have established the starting point as the level provided by the interim plan specified by Congress in Title III of H.R. 2463.

Section 208 of H.R. 2463 establishes a strong emphasis on plan monitoring and maintenance requirements. With the congressional direction provided in Section 208, the agencies should feel a commitment to the strong implementation of the plans that they work so hard to develop. Without this commitment it is arguable that none of the salutary goals in the plans -- whether they relate to timber production or spotted owl protection -- will be achieved.

Finally, Section 209 provides a strengthened process encouraging citizen petitions for plan amendments and revisions. This provision was provided in only an abbreviated form in H.R. 5094. In H.R. 2463 it is a centerpiece for providing new opportunities for citizen participation in the implementation of Forest Service and BLM plans.

Specifically, Section 209 attempts to resolve resource conflicts through an administrative mechanism to provide citizens with the opportunity to petition the relevant agency for a modification to the plans. We believe this will involve a new mechanism for involving citizens in a productive dialogue with

the Forest Service and BLM land managers. It should minimize the instances in which the federal district courts are used as a referee of first impression in land management disputes.

We believe that Section 209 represents one of the most creative elements of H.R. 2463. It presents the Subcommittee with a true opportunity to reinstate an honest and good faith dialogue between citizens and the federal land managing agencies.

III. Part B of Title II Is Essential to Provide Some Direction to Streamlining Administrative Appeals and Judicial Review of Revised Plans and Subsequent Implementing Actions.

Another component of H.R. 2463 which will be subject to a great degree of misunderstanding is Part B of Title II because it deals with the difficult issues of administrative appeals and judicial review. Here again, the elements of the proposal were found in a different form in H.R. 5094 but were dramatically changed due to the guidance and insights provided during last year's hearing.

Nevertheless, we are certain that the provisions of Part B of Title II will be subject to attack by preservation groups as unconstitutional, unwise, and extremely undesirable. Fundamentally, however, the predictability in resource planning decisions sought by the industry and dependent communities will be impossible without some streamlining of judicial review and administrative appeal procedures. This is basic to fashioning an

equitable and balanced solution to our current conflict. It is as fundamental to resolving this conflict as the industry's commitment to the development of an old growth reserve.

Unfortunately, preservation groups appear either to not understand this point, or hope to be able to avoid it. Nevertheless, it is time for them to: (1) get beyond their "denial" of the need to expedite judicial review and administrative appeals procedures; and (2) step forward toward a good faith effort to work with us to make sure these changes are equitable and efficient.

With that as a predicate, I would like to review the provisions of Part B of Title II. But before I do this, let me digress and describe first what Part B of Title II does not do.

A. What the Proposal Does Not Do: The False Issue of Access to the Courts.

I begin this way because one issue -- the frequently voiced but fraudulent issue of judicial access -- should be addressed at the outset. I am sure that the members of the Subcommittee have heard repeatedly the lament that somehow the Administration, industry, even segments of Congress are all threatening to deprive citizens of their constitutional right of access to the courts, and that H.R. 2463 is a prominent manifestation of this effort.

This assertion is wrong in several regards.

The short answer is that no such right is guaranteed by the Constitution. The Constitution does not accord an automatic right of access to the courts for equitable relief and the Congress may restrict such access. A particularly apt statement of this principle is found in the Congressional deliberations over the 1932 Norris-La Guardia Act. That act sharply limited the jurisdiction of the courts to issue temporary or permanent injunctions in labor disputes. In considering the judicial access question, the Senate report (No. 163 at page 11) quoted favorably from a then-recent Supreme Court decision:

Certainly, it is not a right granted by the Constitution ... Only the jurisdiction of the Supreme Court is derived directly from the Constitution. Every other court created by the general government derives its jurisdiction wholly from the authority of Congress. That body may give, withhold, or restrict such jurisdiction at its discretion. The Constitution just gives to the inferior courts the capacity to take jurisdiction in the enumerated cases, but requires an act of Congress to confer it. And the jurisdiction having been conferred may, at the will of Congress, be taken away in whole or in part. A right which thus comes in to existence only by virtue of an act of Congress, and which may be withdrawn by an act of Congress after its exercise has begun, cannot well be described as a constitutional right. (Kline v. Burke Construction Company (260 U.S., 226, 233-234 (1922)) (citations removed).

The longer answer -- and the only one relevant to H.R. 2463 -- is that this threat of denied access to the judicial review system is a figment of imagination. Put simply, H.R. 2463 does not restrict judicial access.

H.R. 2463 does take two steps which those who dwell on the judicial access issue have found alarming. H.R. 2463: (1) limits the basis for challenging timber sales and other actions which implement forest plans to whether those actions are consistent or inconsistent with the plan and other nondiscretionary statutory requirements; and (2) prohibits challenges of plan implementing actions on the basis of new information until a plan revision petition has been filed and decided.

Those who continue to subscribe to one of the primary purposes of the national forest system articulated in the 1897 Organic Act -- "to furnish a continuous supply of timber for the use and necessities of citizens of the United States" -- might have preferred that H.R. 2463 stop right there with those steps. But the bill does not do so and because the bill does not, it cannot be fairly said that H.R. 2463 inhibits litigation or the ability of anyone to seek redress for alleged injuries in the courts.

To the contrary, the bill is aggressively innovative in according full protection to litigants. It is particularly solicitous of the plaintiffs in national forest litigation, those who are most responsible for consigning national forest management to the judiciary. Moreover, H.R. 2463 is a substantial change from last year's proposal, because H.R. 5094 did prohibit preliminary injunctions. Even though this is

clearly constitutionally appropriate, we have withdrawn this proposal due to the controversy that it engendered. Now, I would like to review the specific revisions of Part B of Title II of H.R. 2463 so we can appreciate the innovations provided in the proposal, as well as the changes from H.R. 5094.

B. Specific provisions Dealing with Administrative Appeals and Judicial Review Will Improve Natural Resources Decision-Making.

Section 210 of H.R. 2463 addresses needed changes in the administrative appeals procedures associated with Forest Service decision-making. Here, we provide that standing to bring an administrative appeal shall be available only to persons that have submitted written or oral comments during the preparation of the plan, amendment, revision, document, or agency action on the specific issue or issues for which administrative review is sought. This is a change from last year's proposal to reflect currently developing case law on standing raised by Congressman Marlenee at last year's hearings.

We believe that it is imperative that interested parties exhaust their administrative remedies -- including and particularly the new petition for plan amendment or revision provided in Section 209 of H.R. 2463 -- before they either file administrative appeals or seek judicial review.

Section 211 establishes similar standards for standing in the case of judicial review. These standards apply to judicial review of minimum management requirements, forest plans, and implementing actions. Here again, we attempt to use standing as a way of directing citizens to seek redress directly from the agencies before they seek judicial review.

With specific reference to judicial review of plan implementing actions, Section 213 established that the principal standard of review for an implementing action is consistency with the plan it implements and the non-discretionary provisions of laws other than the National Environmental Policy Act. This is a revision from H.R. 5094 to respond to criticisms over foreclosing valid application of judicial review in the case of violations of non-discretionary provisions of law.

Perhaps the most important elements of Title II are the Section 214 deadlines and procedures imposed upon the courts for dealing with judicial review of agency decision-making. This is not an exercise in foreclosing access to the courts. Rather, we would be encouraging the courts to act in an expeditious manner given the economic and social implications of the decisions that are to be rendered. Here we put the courts on deadlines which we believe are reasonable given the types of decisions to be rendered, and in light of the fact that we have limited judicial review to the administrative record provided by the agency.

Section 215 deals with the status of NFMA plans pending judicial challenges of plan amendments or revisions. We believe that NFMA plans must stay in effect until the judicial review of a plan revision or amendment is finally concluded.

Finally, Section 216 is an extremely important provision to direct the Forest Service to bring some order and sanity to its NEPA compliance responsibilities. Here we give the Agency guidance concerning the tiering of NEPA documentation requirements. The Section directs the Agency to develop comprehensive NEPA compliance regulation to better order NEPA compliance responsibilities and remove the burden of assessing appropriate NEPA compliance from day to day decision-making. We hope that, through an orderly process of developing a NEPA compliance procedure at the front-and, the Forest Service will cease to approach NEPA by honoring it only in the breach. This has unfortunately become the common course of events in Forest Service decision-making.

IV. Summary

This concludes my review of the provisions of Title II of H.R. 2463. I believe that it is one of the most creative and essential components of the proposal. Many of the provisions of Title II of H.R. 2463 have been modified compared to H.R. 5094.

These modifications are the direct result of careful consideration and comments.

In developing Title II of H.R. 2463, we have made a good faith effort to respond to all reasonable comments concerning the proposal introduced last year. I hope that the Subcommittee will give detailed consideration to the elements of Title II and include them in any measure that gains final passage.

I appreciate the opportunity to testify. I would be happy to respond to any questions.

(Attachment follows:)

ATTACHMENT TO
STATEMENT FOR THE RECORD
OF
JIM GEISINGER

PRESIDENT
NORTHWEST FORESTRY ASSOCIATION

I. Introduction.

My name is Jim Geisinger. I'm the President of the Northwest Forestry Association, based in Portland, Oregon. This attachment to my testimony is submitted as the forest products industry's specific comments concerning the "Ancient Forest" bill introduced by Representative Vento.

The industry testified last year on the very similar version of this bill, introduced as H.R. 5295 in the 101st Congress. We appreciate the opportunity to offer the Subcommittee our comments on this year's version, H.R. 1590.

Last July, industry presented to the Congress a panel of academic witnesses and their study which demonstrated that the spotted owl listing and its implementation could cost more than 100,000 jobs in the three-state owl region. Developments in the past ten months have only served to reinforce our view that this projection is regrettably accurate. An additional study projected the impacts of passage of last year's H.R. 5295 as somewhat higher at 108,000 jobs. Rather than repeating the findings of the studies in detail, however, I will simply incorporate them by reference into today's testimony and will instead focus on the specific contents of H.R. 1590.

II. The Improvement in Atmosphere.

At the time Representative Vento introduced H.R. 5295 last year, I think it is fair to say that he and the forest products industries generally regarded each other as adversaries. Our contacts with each other were minimal. We regarded his legislation as carrying out the objectives of the preservationists with whom we've struggled for years. We suspect he saw today's industry as unreconstructed descendants of the timber barons of a century earlier.

In the intervening ten months, I believe this atmosphere has changed significantly. Mr. Vento and his staff have opened their doors to us and have accepted our invitations to get to know industry better.

We believe that industry also has stepped forward, not only procedurally by increasing its contacts with the committee, but substantively by developing a genuine compromise proposal for both interim and long-term resolution of the old growth, spotted owl, and timber supply matrix of issues. That proposal now is introduced as H.R. 2463 by Mr. Huckaby and others. You're hearing about in detail from other industry witnesses. This proposal already has received substantial initial favorable reaction from the Northwest delegation, which is working deliberately to develop a consensus position on these issues.

- 3 -

We believe that the proposal is a major substantive step forward on our part from two perspectives. First, our new willingness to accept designations of old growth is a significant move toward Mr. Vento's objective of making those designations. Second, we have modified some of our previous positions concerning judicial and administrative review of forest decisions. These positions drew some of the strongest opposition from the organizations that support Mr. Vento in this arena.

III. The Disappointment with H.R. 1590.

Notwithstanding the gracious procedural steps that Mr. Vento has taken, I must express our extreme disappointment with the substantive content of H.R. 1590.

Last year, we pointed out flaw after flaw with the predecessor bill, H.R. 5295. These weren't just points of philosophical difference. They were variously factual, scientific or legal problems with the bill. Virtually none of these problems has been fixed with this latest bill. Our comments have been essentially ignored. It leaves us shaking our heads and wondering if the sponsors really understand what is being proposed. The only positive changes in the bill all are directed at providing more help for displaced timber workers and communities. While these changes are helpful in part, they are akin to providing a more lavish funeral for the deceased rather than attempting to prevent the death.

Later in this testimony I'll once again list for you some of the major specific problems of the bill. But first, I think we need to address in an over-all sense the stated objectives of H.R. 1590, and see how they square with the general approach of the bill.

IV. The Ends and the Means of H.R. 1590 are out of Synch.

Where legislation on the preservationist side is concerned, one must always be careful in trying to sort through the surrogates to find the real objective.

The principal stated objective of H.R. 1590 is to "assure protection in perpetuity of a resource of old growth forest ecosystems." The second stated objective is to "ensure the viability and recovery of the northern spotted owl as well as the viability of other species of plants and animals dependent on or associated with old growth forest ecosystems."

If preserving old growth forest ecosystems is the objective, then it is curious that the legislation addresses only land managed by the U.S. Forest Service and the Bureau of Land Management, the government's two principal timber-selling agencies. Not only does the bill ignore old growth found in national parks, it includes a formula for determining the makeup of the old growth reserves that downgrades the role of old growth

found in congressionally designated wilderness and in wild and scenic river corridors.

If preserving old growth forest ecosystems is the objective, then it is curious that the legislation uses as its starting point the Interagency Scientific Committee (ISC) land designations whose geographic area is barely half old growth.

If preserving old growth forest ecosystems is the objective, then it is curious that the bill would require designations totaling 6.32 million acres, although the preservationists say there is only about 2 million acres of old growth remaining.

If protecting old growth forest ecosystems is the objective, then it is curious that the bill would prohibit salvage sales within old growth although proper salvage reduces the massive destruction of old growth by fire or disease.

If ensuring the viability and recovery of the northern spotted owl is an additional objective, then what is the purpose of the Endangered Species Act (ESA)? The ESA already is providing virtually complete protection for the owl at staggering cost to the region. Under the ESA, an owl recovery plan is being developed by the Fish and Wildlife Service. Yet the bill would ignore whatever the scientific findings or land designations of this recovery plan might be, while misplacing great credence in the ISC report that is based on increasingly outdated science.

Why, indeed, does H.R. 1590 completely ban timber harvesting in old growth reserves when emerging scientific evidence in the privately owned second-growth forests of California demonstrates that spotted owls are prospering in managed forests--forests where timber is cut.

Just as it is obvious that the northern spotted owl was a surrogate for protecting old growth forests, the provisions of H.R. 1590 could lead one to conclude that preserving old growth is merely a surrogate for closing down the timber industry.

As the labor-management bill makes clear, we now accept the concept of creating old growth reserves. Our approach, however, is based on a process that truly focuses on old growth, not on a process that merely uses old growth as a surrogate for another objective.

V. The Numerous Continuing Specific Problems with H.R. 1590

Last July the industry recited many additional specific problems with H.R. 5295. It would be repetitive to repeat that recitation in full, although virtually all of those problems remain in H.R. 1590. Permit me, however, to list a few brief examples of those problems before moving on to additional shortcomings that have newly emerged in the latest bill.

- 7 -

- Contrary to the implication of Finding 6 of the bill, old growth forest ecosystems as compared to managed forests do not help slow atmospheric change. Old growth forests are generally less efficient at processing and fixing carbon than rapidly growing forests.

- Section 5(a) establishes a specific acreage minimum for the old growth reserve before the Ancient Forest Committee can even define, pursuant to Section 4(9), what the term "old growth forest ecosystem" even means. Any definition approaching the one used in some cases by the preservation organizations could make it impossible to even find enough old growth to meet the acreage minimum. It would at least make a mockery of Section 5(c)(9)'s requirement that the secretaries minimize the impacts of reserve designations on timber supply.

- The entire reserve designation process is layered on top of all other forest planning decisions rather than being integrated into those decisions. This destroys the multiple-use land allocation balance of previous decisions without permitting balance to be reestablished. Legislative history clearly shows that many previous set-asides, such as those in wilderness bills, were predicated on a certain commercial forest land base remaining available. Some of those set-asides would not have been made if the compensating commercial land base were not available. But the overlaying reserve designations would

- 8 -

remove significant elements of that land base without any revisiting of the earlier set-aside decisions.

- There is no enforceability of the three-year deadline for action by the Secretaries to create the reserve. The interim set-aside of the ISC designations could, as a practical matter, turn out to last for years if the Secretaries' processes bog down. For evidence of how controversial land allocations decisions can miss statutory deadlines, one need look no further than RARE I, RARE II or the first round of plans under the National Forest Management Act.

- The New Forestry program of Section 7 would be imposed on old growth outside the reserve rather than practiced on old growth within the reserve. The whole objective of New Forestry is to achieve essentially the objectives stated for the reserve. If the bill's supporters truly want to minimize the impact of the reserve on timber supply as implied in Section 5(c)(9), then New Forestry, rather than an outright timber harvest ban, should be the standard for the reserve.

- The membership of the Ancient Forest Committee is overwhelmingly skewed toward preservationist management. It lacks adequate economic and sociological expertise although its decisions would have an economic and sociological impact greater than that of any land set-aside bill ever considered by Congress.

• The interim timber harvest levels seemingly promised by Section 10 are illusory. The section provides its own escape clause--the "consistent with the requirements of subsection (c)" wording. The present inability of the timber-selling agencies to meet goals less constrained than those of this bill demonstrates the illusion of this section.

VI. Problems New with this Incarnation of the Bill.

A. Future Changes.

In this year's bill, once the agencies have established the reserve system, only Congress can change the boundaries in the future. Last year's bill allowed the agencies to make these changes.

A laudable element of H.R. 5295 was its reliance on administrative process rather than Congressional politicking to draw the reserve boundaries. H.R. 1590 backslides substantially by reverting to Congressional action for any future boundary changes. This new provision not only further divorces the reserve system from regular forest planning, it makes it far more difficult to update reserve boundaries even though the nature of any forest area changes over time.

This new provision illustrates the incorrect mindset of the preservationists who see the forest as static and unchanging,

rather than as constantly evolving--sometimes gradually, sometimes abruptly. Those who favor this provision should favor designating certain named persons as the recipients of Social Security, even though the specific makeup of the Social Security recipient population is constantly changing as individuals age or die.

B. Don't Preserve the Reserve

The same philosophy that endorsed the burning of Yellowstone National Park now is applied to the old growth reserve by H.R. 1590. That philosophy prevents the salvage of diseased or dying timber from the reserve even though the buildup of dead material substantially increases the chances that the reserve area would be destroyed by fire or disease.

It's a sheer waste that appears contrary to the objective of the bill and makes no sense unless the real objective simply is to further reduce timber harvesting for its own sake.

C. The 50-11-40 Rule

The new version of the bill would add the ISC 50-11-40 restrictions to the interim timber harvest restrictions. If these restrictions are necessary for the spotted owl, they can be enforced by the Fish and Wildlife Service pursuant to the

Endangered Species Act. In the context of old growth, they are overkill. As noted above, the ISC acreage in habitat conservation areas (HCAs) already is barely half old growth, and the HCA acreage is three times the volume of old growth said by the preservationists to exist.

VII. Does Industry See Any Future for H.R. 1590?

I sought to begin on a positive note by citing the improved atmosphere of relations between the industry and Mr. Vento.

I want to conclude now on another positive note by looking to where we can go from here if Mr. Vento exhibits a willingness to hear our views.

Although we obviously have major problems with many elements of H.R. 1590, some of its basics may be compatible with the industry's legislative outline, and may form a basis for further discussion. In what way? Let's tick off some points:

- We each recognize the utility of establishing an old growth reserve.
- We each would establish both an interim and a long-term program.

- We each would designate the components of that reserve through an administrative process rather than through line-drawing by Congress (although, as I noted above, we oppose the new bill's change in philosophy for later changes in the reserve).

- We each would provide for appropriate forestry research and for application of new forestry techniques.

- We each would provide for a designated minimum timber sale program in the interim.

We and the preservationists have sufficiently demonstrated that we can each stop the other's most desired bill on this subject, including predecessors to both H.R. 1590 and Mr. Jontz' H.R. 842. It's probably time to try to reach some common ground instead of just continuing the trench warfare through such silly and extreme measures.

I've already referred to the improved atmosphere between Mr. Vento and the industry. Some field hearings and plenty of tough negotiations will be necessary. But a compromise substitute for H.R. 1590 can be the vehicle to a solution this year.

We're willing to give it a try.

STATEMENT FOR THE RECORD

OF

MARK PAWLICKI

DIRECTOR OF CORPORATE AND PUBLIC AFFAIRS

SEQUOIA FOREST INDUSTRIES

DINUBA, CALIFORNIA

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS

OF THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

OF THE

UNITED STATES HOUSE OF REPRESENTATIVES

May 30, 1991

I. Introduction

Good morning. My name is Mark Pawlicki. I am director of corporate and public affairs at Sequoia Forest Industries, headquarters in Dinuba, California. Our company currently employs about 750 people in three states -- California, Oregon, and Montana. We produce approximately 300 million board feet of lumber annually from our five plants in these states.

Our company is primarily dependent on the national forests for its raw material supply. We are somewhat fortunate in that none of our operations are located near forests where the Northern Spotted Owl lives. However, we face substantial threats to our timber supply for other reasons, including appeals and litigation of timber sales and Forest Service management priorities which are resulting in reduced timber availability. Moreover, our operations are directly threatened by conservation measures for the California Spotted Owl, a different subspecies of the bird.

II. Background

There are elements of the legislation that you are considering today which are very important to our company. You have already heard a detailed description of the legal review and forest plan implementation sections in Title II of the bill from previous speakers. The passage of such legislation, which permits the

Forest Service to get about the business of running the national forests, is crucial to our company's survival. Additionally, the provisions of Titles I and III are also important to return some stability to the Forest Service and BLM timber sales programs.

In California, we produce about 200 million board feet (MMBF) of lumber each year. Of this, some 60 percent, or 120 MMBF goes to secondary manufacturing facilities which produce doors, windows, millwork, and furniture stock. These companies employ thousands of people in their businesses. We sell lumber as far away as Minnesota, where Marvin Windows employs 3,000 people in the manufacture of high-quality doors and windows. Marvin, like other nearby manufacturers of doors and windows -- Andersen Windows and Pella Rolscreen -- is totally dependent on western wood for its supply of raw material.

Today, I would like to begin by focusing on an aspect of the debate over the management of the national forests which could adversely affect our relationship with relationship with Marvin Windows and other secondary manufacturers. I am referring to an idea that often accompanies the preservationists' efforts to reduce national forest timber supplies -- that is the proposal to emphasize secondary manufacturing as a substitute for primary manufacturing of lumber.

This proposal is central to the economic adjustment package in H.R. 1590 (the Vento Bill). It is not included in Title IV of H.R. 2463. I would like to explain why, and elaborate on why I think H.R. 2463 is the better measure.

III. Promotion of Secondary Manufacturing in Timber-dependent Communities Does Not Make Good Economic Sense.

First of all, I want to call your attention to the fact that a large and viable secondary wood manufacturing industry already exists. This segment of the forest products industry developed in response to widespread consumer demand. Prospects from the market side are very promising. The only cloud on the horizon is the growing pressure to limit timber harvesting on public and private forest lands.

For some peculiar reason, the notion that secondary manufacturing can mitigate job losses has assumed a life of its own. This is peculiar, because the concept has absolutely no merit. First of all, promoting secondary manufacturing makes no sense from an economic standpoint. This was revealed in a recent study conducted by Professor Paul Polzin at the University of Montana. He concluded that secondary manufacturing will not solve the problems of most timber dependent communities -- secondary manufacturing facilities are attracted to large markets for finished products and not the source of raw material.

Consequently, he concluded that areas with large populations may have opportunities not available to sparsely populated areas to diversify their wood products industry.

Frank Goode and Rory Frasser at Penn Stats also found a negative relationship between the geographical availability of lumber and the location of new plants engaged in secondary manufacturing. The economic reason behind these research findings is straight-forward. It is much more economical to ship lumber to manufacturing facilities near large metropolitan areas than it is to ship bulky, more expensive finished goods to distant customers.

IV. Promotion of Secondary Manufacturing Is a "Beggar-thy-Neighbor" Policy in Disguise That Would Penalize Existing Industry

An article appearing last July in the Chicago Tribune illustrates another downside of the secondary manufacturing idea. The headline stated, "Subaidy for Competition Will Just Churn Jobs," and went on to describe how the attempts by the Illinois Development Finance Authority to obtain approval of a \$6.6 million industrial revenue bond would hurt an existing establishment. It seems that the sought after bonding authority would finance a new operation --Metalpro-- that would compete for the same customers with an existing firm --Main Street Polishing-- in a neighboring community.

One can understand the anguish of Ron Connell, V.P. of Main Street Polishing, who observed that,

"It doesn't seem right that the State of Illinois is going to lend money . . . when there won't be new jobs and it's going to move jobs from one company to another."

This incident illustrates why the federal government should not promote secondary manufacturing of wood products as a means to mitigate job losses in the primary sector. Besides being uneconomical, proposals to subsidize the construction of secondary manufacturing facilities would be unfair.

V. Existing Firms Would Suffer From Double Jeopardy

Like the proposal to reshuffle jobs in Illinois, efforts to promote secondary manufacturing of wood products also flunks the fairness test. As Buzz Marvin, President of Marvin Wood Product, pointed out in his testimony last March at Congressman Bruce Vento's hearings,

"Provisions of your bill would provide federal subsidies to stimulate more secondary manufacturing in the Pacific Northwest. This would be totally unacceptable to those of us who would have to compete for a dwindling timber supply and the same number of customers. This attempt to mitigate jobs

lost in logging and sawmilling would merely reshuffle the deck and end up shifting un-employment elsewhere including Minnesota."

The Brand S wood products facility in Livingston, Montana faces the grim reality of shrinking timber supplies. Last year they added a secondary manufacturing facility next to their sawmill in Livingston, Montana. Today, they next contemplate closing both facilities because of appeals and litigation of federal timber sales. The bottom line is simply this: Why be concerned with secondary manufacturing when—as is the case with Brand S—there is not enough timber to operate the primary facilities?

In essence, federal subsidies for new secondary manufacturing coupled with declining timber supplies would subject existing firms to economic double jeopardy.

VI. Expectations for Recreation/Tourism Industry Are Not Realistic

I want to touch briefly on another proposal in H.R. 1590 to mitigate the economic loss of timber dependent jobs, namely the promotion recreation and tourism.

At the regional level, recreation-tourism is a wash. That is, because consumers have limited discretionary time and money, increasing tourism and recreation facilities will shift

recreational activities from one area to another. Consequently,
who can say, for example,

- * That a stepped up recreation program on the national forests won't cut in on the profits of KOA?
- * That more abundant camping activities won't siphon away potential participants of little league baseball? A bowling league?
- * That more abundant camping activities on the national forests won't cut in on use of county and state parks?

Recreation and tourism is mostly seasonal, so how will a former sawmill worker support himself (herself) during the off season? Furthermore, jobs in the tourism industry are low-paying. Is reasonable to expect a former mill worker to accept a significant reduction in his(her) standard of living?

Finally, like timber harvesting, anti-development activists have perennially opposed viable, 4-season recreational developments. In central California, for example, several proposals for ski development, including a Disney development, have been actively opposed by preservation interests. The same holds for the construction of camping, and day-use facilities needed to support rapidly expanding windsurfing activity along the Columbia River Gorge near Hood River, Oregon.

**VII. Forest Productivity Initiative Fails to Consider Mis-match
Between Timber Shortfall and Response to Intensive Forestry
Measures**

The "Forest Productivity Initiative" provision of H.R. 1590 fails to recognize the mis-match between the near-term short fall in timber supplies and the time required to enhance the productivity of non-federal forest lands. To begin with, considerable progress is currently underway to regenerate forest lands -- all three states in the owl region have stringent requirements regarding regeneration. As a consequence, the provision to plant more trees on non-federal lands is essentially vacuous. The same holds for timber stand improvement -- intensive forestry on industry lands is widespread. The remaining ownerships are not that important in terms of area and, consequently would not contribute much even if the response to intensification were immediate. Since response to intensification will require many decades, there is no way for this activity to mitigate job losses in the short term.

The same limitations holds for provisions calling for improved wood utilization through training and installing the latest technology for lumber production and drying. These activities are already on-going. Any acceleration would have a minimal impact both in the short-term and the long-term.

VIII. Sequel to the Expansion of Redwoods National Park
Provides Clues

The economic trauma that would be spawned by banning timber harvesting on the remaining old-growth in the owl region is unprecedented. Experiences subsequent to the expansion of the Redwoods National Park, however, provide some clues for what to expect.

During the late 1970's, the forest products industry had to down-size when privately owned forest land was acquired to expand the Redwoods National Park located along the north coast area of California. Despite the promise of an extraordinary increase in visitation to the Park --which did not materialize-- and the efforts of several federal grant programs, this area, according to Professor Keith Gillis at the University of California-Berkeley, continues to suffer from chronic unemployment. In fact, less than one (1) percent of the projected visitor use has actually been realized in the Redwood National Park.

IX. False Claims for Mitigation Proposals Stymies Progress

Now, let me summarize.

None of the conventional economic development strategies in vogue will help timber dependent communities cope with the un-

precedented economic losses they would sustain if presentation of remaining old-growth is the only sequel to the listing of the Northern Spotted Owl.

- Subsidizing new manufacturing industries would merely reshuffle the existing deck without changing the game.
- Promoting secondary manufacturing of wood products would subject existing manufacturers to double jeopardy.
- Recreation/tourism is a wash. Furthermore, viable, 4-season resort complexes are likely to be opposed by the same groups that oppose timber harvesting.
- Reforestation and intensive forestry is an on-going operation on most lands in the owl region. Furthermore, these practices have long-term, not short-term payoffs. Consequently, efforts to step up these practices would not mitigate the substantial shortfall of timber supplies.
- Like the stranded economy near the Redwood National Parks, timber-dependent communities will likely suffer from chronic unemployment despite massive efforts to mitigate job losses.

Recently, the FDA announced campaign against misleading food labeling. This announcement called to mind the claims made for various proposals for mitigating the potential economic losses associated with a ban on timber harvesting to protect the Northern

Spotted Owl. I suspect we would see more progress toward a realistic solution to the Northern Spotted Owl issue if those parties offering up solutions for mitigating economic losses were faced with the possibility of being held liable for false claims.

By contrast, the economic assistance provisions suggested by H.R. 2463 rely upon tested programs, using existing delivery systems, to create rural jobs. The serious objections that many, including the Administration, will raise to these provisions is a fiscal concern. Where will we get the money to do this? Doesn't it make sense to invest the limited money we do have on proven programs that will create real jobs? H.R. 2463 takes a step in this direction.

TESTIMONY OF
ROBERT L. SPENCE
PRESIDENT
PACIFIC LUMBER & SHIPPING COMPANY
BEFORE THE HOUSE AGRICULTURE SUBCOMMITTEE ON
FORESTS, FAMILY FARMS, AND ENERGY

May 30, 1991

Mr. Chairman, I am Bob Spence, President of Pacific Lumber & Shipping Company. My grandfather, Carl Spence, and my father, Chuck Spence, established PLS in Seattle in 1932 as a lumber trading firm. As you can imagine, 1932 wasn't generally a good economic time to start a business. At that time, big established lumber firms were concentrating on selling their products primarily to the domestic market. My father and grandfather were pioneers in the marketing of West Coast wood products to the international community. Since that time, almost 60 years ago, the international marketing of wood products has become a major, multi-billion dollar component of the forest products business, contributing positively to the U.S. balance of trade, and participated in by the largest and smallest of timber companies.

But it all started with small business people, such as my father and grandfather. This is the traditional role of small business in the U.S. The small businesses in the forest products industry, as in most other industries, have traditionally set the pace for the large sector. Small business has played the role of stimulating new ideas in

production techniques and in marketing. We are the experimental wing. If you will. We test new ideas; if they are successful, the larger firms take note and adapt their techniques to make use of what we have developed. The small business sector in forest products has brought to our industry diversity in size, creativity, efficiency, allocation of capital, and increased opportunity. The single largest employer and creator of new jobs in the U.S. is small business.

This relates to the management of the national forests in that today the predominant purchasers of Forest Service timber are by far small businesses. Small business access to the resource base brings a more competitive and productive return to the government. In the 1940's when the big companies dominated the purchasing of federal timber, approximately 60% of the resource was left as waste in the woods. Stumpage was averaging seven dollars per thousand board feet. Overnight, with the opening up of the resource to competition from small timber companies, the waste was reduced to 30% and the stumpage tripled to \$21 per thousand board feet. The increased return allowed more progressive management and greater investment in the resource. In a visit to Oregon during his 1948 presidential campaign, Harry Truman applauded what diversity of size within the industry had accomplished stating that, "one ounce of competition is worth a ton of regulation." All this is to say that diversity in the make-up of an industry benefits the industry and the public. In order to be dynamic, there must be variety and competition. Competition stimulates creativity and individuality, resulting in a higher level of performance by everyone involved and in the providing of products at an economically viable price to society.

in the 1970's, my family purchased three old mill facilities in east Lewis County,

Washington. Over the past twenty years, we have invested heavily in these facilities, rendering them among the most efficient, technologically advanced mills in the world. We have achieved the status of the low cost producer and the reputation for efficiency and creativity. Our expansion into mill facilities expanded our work force of 30 people trading lumber in Seattle, to 460 people, predominantly based in four rural communities.

Such an expansion brought with it new responsibilities. Our obligation to the communities in which we are located is to play a constructive role. This is similar to the responsibility of the government to communities where the government is the major land owner, the major supplier of the resource. The company, as well as the government, have entered into a social contract with the community by virtue of our presence there. If the communities of Randle, Morton, Packwood and Rochester, Washington could be likened, economically, to a 3-legged card table, our operations there would most certainly be one of the legs. The picture is clear in terms of what happens to such a table if one of the legs is missing. If either of us—the company or the government—do not abide by the contract, the community suffers. People lose well-paying union jobs, property values decline, families are forced to relocate. The community's ability to support the infrastructure is lost. Schools, hospitals, and local government services are all jeopardized. The property tax base is severely reduced, leaving those who stay with a far greater share of the burden. Consequently, we recognize that our commitment to those communities is stability of employment. The government's responsibility is stability of land management policy to provide a steady and reasonable supply of timber.

Federal land management decisions over the past ten years have had the net effect of major reductions to the public commercial landbase. Such policy is a substantial threat both to continued diversity within the forest products industry and to the well-being of timber dependant communities. The concept of sustained yield forestry is based on the amount of land in the commercial base. What is sustainable is calculated by determining the amount of acreage in the commercial landbase, the production capabilities of each acre, and the desired rotation age of the forest. But by gouging the landbase with wilderness withdrawals, research natural areas, buffer zones, RARE I and RARE II evaluation lands, habitat setasides for individual species, the concept of sustained yield is completely gutted.

The result of these massive withdrawals from the commercial landbase has been to eliminate the acreage on which the next 50 years' rotation schedule is based. It is impossible to have adequate future supply without the landbase. Yes, there are acres left in the commercial landbase, but they will not be ready for harvest for another 40+ years. Those who are trying to shut down the federal timber sales program under the guise of environmentalism understand the rotation and have strategically targeted those lands. The reason we're all here today is that they have been successful. The federal timber sale program in the Pacific Northwest is completely paralyzed.

It is my belief that we should go back and review the wisdom of wholesale land withdrawal from the commercial timber base. We need to take a new look at the concept of sustained yield, possibly harvesting less acres per year than we have in the past. But we should spread out the harvest over a broader landbase, instead of continually withdrawing acreage from the base, which results in concentrating the

harvest and the environmental effects in a more intense manner. If we could reallocate previous withdrawals, disperse the harvest, look at the possibility of an extended rotation consistent with each forest's characteristics, it is possible that we could achieve a reasonable balance between economic and environmental concerns.

As an example of this concept, the forest which supplies our mills, the Gifford Pinchot, consists of a total landbase of 1.4 million acres. Of that, approximately 1.16 million acres are forested. Of the forested landbase, 485,000 acres are considered unsuitable for a variety of reasons including wilderness, unstable soils, regeneration problems, etc. (I have provided some attachments for your benefit). The current suitable land base available for timber production under the new forest plan is 676,500 acres. On a one-hundred year rotation, it would be possible to log 6,765 acres per year. If the average yield per acre is 50,000 board feet, the average annual harvest would total 338,250,000 board feet. If you considered extending the rotation to 150 years, providing increased habitat and other old growth associated amenities, it would reduce the acres logged to 4510 acres per year, a reduction by 1/3 of what is logged on a one-hundred year rotation. Production, however, would increase, because the timber has grown providing as much as 70-80,000 board feet per acre. This would result in an average annual harvest volume of 360,500,000 board feet—more volume provided with fewer acres being logged.

So, you see, there are opportunities to balance the responsibility we all share to the environment—to the good stewardship of our public lands—with the growing world demand for wood products and the concerns of the people in hundreds of rural communities who produce those products. I know we can protect species and habitat,

as well as people and their way of life. It is possible to maintain a diverse and innovative forest products industry without giving up diverse, ecologically rich forests. But we can not accomplish such a balance if the landbase on which all of those things rely is continually segmented off, dedicated to single, exclusive use for one species or one group of people. Teddy Roosevelt, summed it up at the 1908 National Conference of Governors on Natural Resources saying, "Finally, let us remember that the conservation of our natural resources, though the gravest problem of today, is yet but part of another and greater problem to which this Nation is not yet awake, but to which it will awake in time, and with which it must hereafter grapple if it is to live--the problem of national efficiency, the patriotic duty of insuring the safety and continuance of the Nation.

Thank you, Mr. Chairman.

(Attachments follow:)

ROTATION EXAMPLE

Total acres on Gifford Pinchot: 1.4 million

EXHIBIT 1

- A. Each circle represents one decade of acres logged.
- B. Large circle represents 100 year rotation.
- C. First five circles have been harvested and are regrowing.
- D. The 1990 decade is current planned harvest.
- E. The last four circles are the acres for future harvest but are either withdrawn or proposed to be withdrawn.

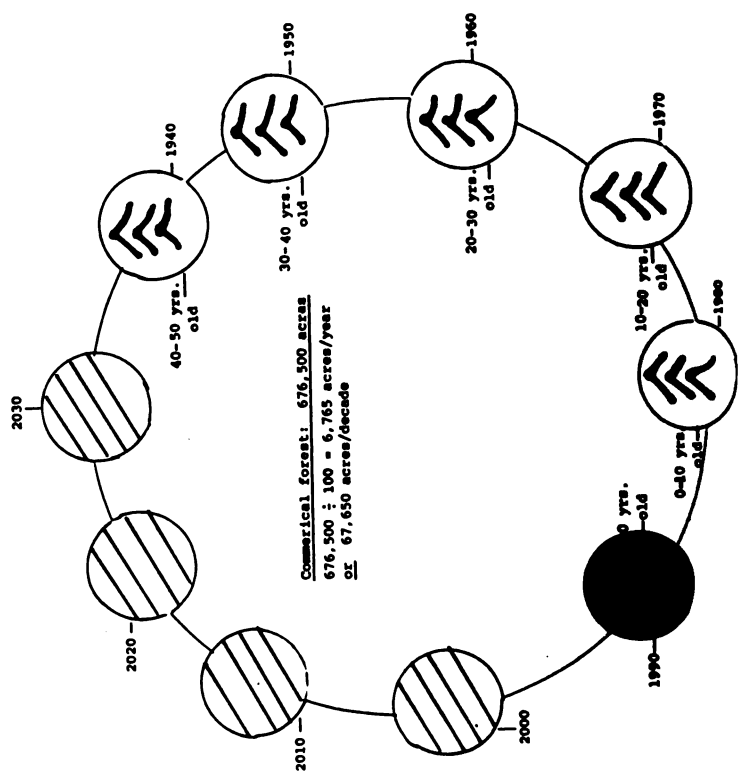


EXHIBIT C (A)



EXHIBIT 2 (B)



EXHIBIT 2 (C)



EXHIBIT 3

FIGURE IV-12 TIMBERLAND CLASSIFICATION	
Classification	Thousand Acres
1. Non-Forested land (includes water)	209,900
2. Forest land	1,161,800
3. Forest land withdrawn from timber production.	195,500
4. Forest land not capable of producing crops of industrial wood.	NA
5. Forest land physically unsuitable: Irreversible damage likely to occur Not restockable within 5 years.	2,300 17,100
6. Forest land-- inadequate information	0
7. Tentatively suitable Forest land (item 2 minus items 3, 4, 5 and 6)	946,900
8. Forest land not appropriate for timber production	270,400
9. Unsuitable Forest land (item 3, 4, 5, 6 and 8)	485,300
10. Total suitable Forest land (item 2 minus item 9)	676,500
11. Total National Forest Land (items 1 and 2)	1,371,700

Sources: LAND AND RESOURCE MANAGEMENT PLAN
Gifford Pinchot National Forest
1990

FIGURE IV-13 SUITABLE TIMBER ACRES BY MANAGEMENT AREA CATEGORY				
Management Area Category	Tentatively Suitable	Suitable Acres	Unsuitable	
NVM	0	0	0	
Wilderness	0	0	0	
Research Natural Area	0	0	0	
Experimental Forest 1/	0	0	0	
Special Interest	19,300	0	19,300	
Unroaded Recreation	52,900	0	52,900	
Roaded Recreation	30,800	1,100	29,700	
Developed Recreation	5,000	0	5,000	
Visual Emphasis	122,800	117,900	4,900	
Wild and Scenic Rivers	47,300	27,600	19,700	
Wildlife Special	5,600	0	5,600	
Mountain Goat	26,100	22,400	3,700	
Deer/Elk Winter Range	95,300	92,700	2,600	
Spotted Owl	94,000	0	94,000	
Pileated Woodpecker	7,700	0	7,700	
Pine Marten	12,000	0	12,000	
Administrative Site	1,000	0	1,000	
Utility Siter/Corridor	200	0	200	
Timber Production	426,900	414,800	12,100	
TOTALS	946,900	676,500	270,400	

1/ Some timber harvest is expected for research purposes.
Any volume removal would be nonchargeable to the
allowable sale quantity.

* These MACs will contribute to the 10-year harvest
program in the first decade.

By M. J. "Gus" Kuehne, President
 Northwest Independent Forest Manufacturers
 P. O. Box 11346
 Tacoma, Washington 98411

MR. CHAIRMAN AND MEMBERS OF THE FOREST SUBCOMMITTEE, I am Gus Kuehne, President of Northwest Independent Forest Manufacturers. NIFM is an association of 45 small and medium-sized companies which manufacture lumber, veneer, plywood, shakes & shingles; and loggers that purchase timber from public lands in Washington State. Our members are primarily dependent upon timber from the Olympic and Mt. Baker-Snoqualmie National Forest for their raw material supply. The timber supply crisis which has been created by the listing of the Northern Spotted Owl as a threatened species makes essential the passage of the Forest & Family Farms Protection Act of 1991, which is currently before this committee. We urge your support for and prompt passage of this Act and the amendment thereto relating to the management of national forest lands on the northern fringe of the owl's range . . . the Olympic and Mt. Baker-Snoqualmie National Forests. The passage of this legislation will assure that forests are both managed to provide for viable populations of the Northern Spotted Owl and other so-called old growth dependent species, as well as provide for the growing and harvesting of timber crops to the extent possible as is compatible with wildlife and other resource values. We support the remarks of organized labor and other forest industry witnesses before this committee. I will, however, concentrate most of my remarks on the High Quality Forestry alternative for the management of forest lands on the Olympic and Mt. Baker-Snoqualmie National Forests.

Before I go in depth regarding the High Quality Forestry issue, let me first state that it is important members of Congress understand the stakes of the issues being discussed so that you can properly evaluate the testimony you receive. First, I am sure you are aware that the issue isn't the spotted owl. Preservationists now openly admit the issue is preserving more old growth timber. They have frequently stated, "the spotted owl is only a surrogate . . . if the spotted owl did not exist, we would have to genetically engineer it." What isn't so widely understood is that this is also a turf fight for the control and management of our national forests. Certain officials in the U.S. Fish & Wildlife Service are now using the spotted owl listing under the Endangered Species Act to in effect arrest the control of the management of national forest lands in the Pacific Northwest from the U.S. Forest Service. In addition, this is also a fight between professions. It is a battle between wildlife biologists who in their newfound power are now attempting to move far beyond their traditional disciplines of determining the needs of wildlife species to now commanding a veto power over how those needs can be met. Silviculturalists trained in the management of forest ecosystems are being intimidated by biologists who lack any real knowledge of timber harvesting techniques to produce various stand characteristics. It is time that forest scientists reminded wildlife biologists that their duty is to study old growth species and determine the

needs of those species, not to prescribe how those needs can be met.

Now to the specific thrust of my statement regarding forest lands in western Washington. can work together in such a manner as will provide the best scientific solution. The old growth and spotted owl issue are frequently intertwined in political discussions. They have a commonality only to the extent that both could lead to the preservation of large acreages of public forest lands. From a technical standpoint it is important that they be considered separately since, in fact, only about one-third of the old growth is not suitable owl habitat (the higher elevations are generally unsuitable) and about one-third of the owl habitat is not old growth (timber from 100 to 200 years old).

I. Old Growth Issue

The old growth preservation issue has been dealt with by Congress for most of the past century. Their decisions have resulted in the following conditions:

- * Western Washington has the largest preserve of old growth softwood timber found in any similar sized region of the world.
- * The Forest Service-Vegetative Mapping for Determination of Old Growth, dated March 1991 found that well over half (57.4%) of all old growth timber on federal lands in western Washington, western Oregon and northern California; is in the North Cascades and Olympic Peninsula, see Exhibit #1.
- * The North Cascades and Olympic Peninsula have only 29.5% of the old growth in the region.
- * The North Cascades and Olympic Peninsula have 62.1% of the old growth found in those areas reserved while the rest of the region has only 19.3% of their old growth reserved.
- * In other words, there is over three times the percentage of old growth reserved in the North Cascades/Olympic Peninsula area as there is reserved in the rest of Western Washington, Western Oregon and Northern California.
- * While environmentalists will contend that National Park reserves do not count because the issue is management of the National Forests, it obviously doesn't make any difference to the trees, the animals that live there, or most of the people that visit them, whether these federal lands were preserved as National Forests or National Park wilderness areas. Also, the vast majority of the National Park lands were in fact once National Forests.

- * There will be more Old Growth timber in the Olympics and North Cascades a century or two from now than exists today, if we adequately protect the existing National Parks and Wilderness areas from forest fires. More old growth timber on forest lands in this area has been lost to fire than has been logged.
- * Even if as much as 400,000 acres of timber in the North Cascades & Olympics burns or is blown down by hurricane in the next two centuries, there will be as much Old Growth in National Parks and Wilderness Areas in the Olympics and North Cascades as there is on all land ownerships in these areas today.
- * Under the HQF Alternative, all phases of forest fire protection would be expanded . . . including fire prevention through stepped up education, fire patrol through use of increased aerial and lookout surveillance, and suppression through increased manning of ground crews, heli-attack, smoke-jumper, and aerial tankers. NIFM recommends that a feasibility study be done of placing aerial fire suppression personnel and equipment at the Whidbey Island Naval Air Station.
- * If further areas of old growth preserves are needed to round out an adequate system, either regionally, nationally or internationally, it should not come from areas which are already grossly over-represented . . . the Olympics and North Cascades. For these reasons, we strongly oppose any further reserves to protect old growth timber on the Olympic Peninsula or in the North Cascades.

II. Spotted Owl Issue

The spotted owl has been listed as an endangered species and a recovery plan is currently being developed. A draft recovery plan is scheduled for public comment by the end of 1991, with a final around the end of 1992.

The Forest Service definition used for identification of old growth included most stands over 200 years old regardless of elevation. Owl habitat on the other hand would include most stands over 100 years old but under 3,500 foot elevation. Thus, while it is true that most old growth, (under 3,500 foot elevation), provides good owl habitat, timber does not have to be old growth to provide owl habitat. We believe that the best way to provide adequate habitat for spotted owls is not to preserve stands of timber but to grow stands of timber long enough to provide owl habitat.

It is easy to see why wildlife biologists recommend setting aside

areas of owl habitat from timber harvest since the rotational length on most owl forests is around 100 years or less, which will result in little or no owl habitat being provided long-term. Therefore, they reasoned the spotted owl is threatened unless habitat is set aside from harvest.

The alternative we recommended is to lengthen rotations from 100 years to from 150-200 years, thereby providing from one-third to one-half the forest land in age classes that would provide owl habitat, see attached Exhibit #2 (High Quality Forestry). We believe the long rotation approach is a superior approach for the Mt. Baker-Snoqualmie and Olympic National Forests for the following reasons:

- * Through the practice of High Quality Forestry (long rotations, intensive thinnings, and new forestry), owl habitat can be adequately provided for and the harvest level will not suffer as great a reduction on these two national forests as if critical habitat as delineated by the Fish & Wildlife Service, or HCA's and the 50-11-40 rule are adopted as recommended in the ISC report.
- * High Quality Forestry practiced on all suitable forest lands will likely produce less acres of clearcutting than HCA's and 100 year rotations outside of HCA's.
- * High Quality Forestry will also provide for numerous other species which are better adapt to older timber stands.
- * A combination of long rotations, early pruning and periodic commercial thinnings will produce higher value timber which lends itself to higher value added product and great employment than will short rotations and HCA's, see Exhibit #3.
- * Under the HQF Alternative, virtually all of the suitable forest land acres outside Wilderness Areas and National Parks is available for growing and harvesting Pacific Yew. Thus, the quantity of Taxol that can be produced is much greater than that of other alternatives. The Pacific Yew can be harvested in older commercial thinnings and in regeneration harvests scheduled in the next several decades. In the long-term, greatly increased harvests of Pacific Yew are possible by growing it as an understory in commercially thinned stands and harvesting the Yew in commercial thinnings and regeneration harvests in stands from 100 to 200 years old, see Exhibit #5.
- * While pruning costs would be added under this system, they are far less than reforestation costs and plantation establishment costs of shorter rotations.

Numerous scientists at Pacific Northwest Forest Experiment Station, the University of Washington and Oregon State University, are supportive of the High Quality Forestry approach.

Adoption of the High Quality Forestry approach for the Olympic and Mt. Baker-Snoqualmie Forests poses little threat to the main populations of owls since it is being tried on the northern fringe of the spotted owls' range.

I. Recommended Action

We urge that for the above listed reasons, that the Forests and Family Protection Act with amendment for High Quality Forestry alternative on the Olympic and Mt. Baker-Snoqualmie National Forests be enacted.

We strongly recommend support of the Pacific Northwest Forest & Range Experiment Station/NIFM proposal to research the High Quality Forestry alternative listed as Item 6 in the New Prospectives in Forestry Program for an estimated cost of \$2.5 million in the FY92 budget, see Exhibit #5.

A key part of the HQF Alternative is increased fire protection aimed at reducing burned acreage to less than 20,000 acres per decade in the Olympics and North Cascades. We urge that full aerial fire attack facilities be developed in Western Washington to protect the 60% of Old Growth timber in the Northwest currently reserved in Wilderness and National Parks on the Olympic Peninsula and in the North Cascades.

Predicted Results

Assuming the above listed actions are taken and result in the appropriate follow through by the agencies and Congress; we predict the following results for federal lands on the Olympic Peninsula and North Cascades:

One and two centuries from now there will be more old growth timber permanently protected from harvest than exists on all ownerships today. This will occur as young growth protected from fire becomes old growth in existing National Forest and National Park wilderness areas.

Spotted owl populations will increase both in wilderness areas as younger stands grow to ages that are more usable by owls and in non-reserved National Forest areas where longer rotations, combined with thinning and new forestry techniques improve owl habitat.

Timber dependent communities on the Olympic Peninsula and

Puget Sound region stabilize as these two forests sell a long-term sustainable yield of from 300 to 500 million board feet annually, with over half of the yields in high quality timber manufactured into high value added products.

- D. As the HQF is practiced, thinnings and regeneration cuts will, increase quantities of Pacific Yew that can be harvested, thereby increasing the amount of Taxol available for cancer treatment. This could possibly save thousands of human lives.

Thank you for the opportunity to testify. I would be happy to answer any questions you may have either at this time or in the future.

(Attachments follow:)

EXHIBIT 1

OLD GROWTH OF FOREST LANDS
IN W. WASHINGTON, W. OREGON & N. CALIFORNIA
RESERVED & NON-RESERVED AREAS

<u>Area</u>	<u>Reserved</u>		<u>Non-Reserved</u>		<u>Total</u>		<u>Percent</u>
	<u>Acres</u>	<u>%</u>	<u>Acres</u>	<u>%</u>	<u>Acres</u>	<u>%</u>	<u>Reserved</u>
No. Cascades	516,880	32.9	426,470	12.6	943,350	19.1	54.9
Olympics	386,570	24.5	127,890	38.1	514,460	10.4	75.1
Subtotal (N.C. & Oly.)	(903,450)	(57.4)	(554,360)	(16.4)	(1,457,810)	(29.5)	(62.1)
All other areas	669,550	42.5	2,807,540	83.6	3,477,090	70.5	19.3
TOTAL	1,573,000	100.0	3,362,900	100.0	4,935,900	100.0	31.9

Note: While the North Cascades and Olympic Peninsula have only 29.54 of the Old Growth in the region, they have 57.44 of the Old Growth that is reserved. The North Cascades and Olympics have 62.14 of the Old Growth found in those areas reserved, while the rest of the region has only 19.34 of their Old Growth reserved.

Source: Forest Service, 1980-Vegetative Mapping for Determination of Old Growth. March 1991.

3/91

EXHIBIT 2

HIGH QUALITY FORESTRY
ALTERNATIVE FOR MANAGEMENT OF THE OLYMPIC AND
MT. BAKER-SNOQUALMIE NATIONAL FORESTS
IN WASHINGTON STATE

I. Introduction

This paper was written to provoke discussion of an alternative to the current management direction for the Olympic and Mt. Baker-Snoqualmie National Forests in Washington State, the northern extremity of the Spotted Owl's range. It is not meant to apply to other land ownerships or to other areas of the nation where public forest lands are managed.

II. Current situation

The Olympic and Mt. Baker-Snoqualmie National Forests are currently being managed under forest land plans which allocate resources based on an elaborate planning system which considers the availability and suitability of resource management activities, developing standards and guidelines for these activities, and then result in varying levels of resource production in management. Under this allocation system, timber management activities are based on growing timber to rotation lengths which maximize yield under principles of sustained yield even flow, but only practicing

this management on a very restricted land base. The major issue threatening the usefulness of these forest land planning procedures is the listing of the spotted owl as a threatened species.

[I. The Timber Management/Old Growth Habitat Conflict

Growing timber to rotation lengths which maximize yield (culmination of the mean annual increment) is a long-standing principle for the determination of harvest levels on national forest lands throughout the national forest system and throughout its entire history. The problem which now arises is that the length of this rotation (90-100 years) will result in only a small percentage of the lands under that management system being in age classes which will support viable populations of spotted owls and other so-called old growth dependent species. Thus, if all or a high percentage of the national forests are managed for rotational lengths dictated by yield, spotted owl and other old growth dependent species habitats will be greatly restricted.

The U.S. Forest Service and U.S. Fish & Wildlife Service response to this dilemma has been to preserve areas from timber harvesting activities. The early approach was to preserve areas for specific pairs of spotted owls. This later evolved into a system of spotted owl habitat areas,

whether occupied or not, and under the Interagency Scientific Committee Report habitat conservation areas, (HCA's) where large expanses of owl habitat would be preserved. All of these concepts were developed on the basis that unless timber stands were preserved from harvest, they would be harvested under timber rotations too short to provide adequate habitat for spotted owls.

IV. High Quality Forestry Concept

The concept of high quality forestry would be to utilize the culmination of mean annual increment as only one of many criteria used to determine the age at which trees would be harvested. Other criteria would include the habitat needs of threatened or endangered species, the price premium for growth of higher quality wood, the effects of thinning and other intermediate cuts on total yield, and the effects of longer rotations on aesthetic values, recreational uses, and water quality. Under the HQF concept, all suitable forest lands would be managed under rotational lengths derived from considerations of all of these values, rather than on a small percentage of the land timber being grown to rotational lengths which maximize yield; and a high percentage of the forest being restricted from timber harvest.

V. Reforestation cuts

At the end of the rotation determined using criteria identified above, timber would be harvested under seed tree and shelterwood systems to the extent practical considering terrain, susceptibility to wind-throw and fire hazards of remaining slash. Clearcutting would be limited to areas where shelterwood and seed tree harvesting were impractical. Regardless of final harvest system, snags and down logs would be left as prescribed by wildlife biologist. Natural or artificial regeneration would be prescribed for each site by foresters and wildlife biologists. Care would be given to maintaining genetic and species diversity.

VI. Intermediate Cuts

Pre-commercial thinning, pruning and commercial thinnings would be prescribed throughout the rotation by foresters and wildlife biologists to accommodate both the needs of wildlife species and to maintain and improve timber growth. Crown closure could be adjusted to produce a variety of crown canopies. Snags & down logs could be produced throughout the rotation, taking advantage of both logging damage, wind-throw, cable skid roads, landing sites, etc., to produce stands which meet the habitat needs of threatened species. The interval between intermediate cuts would vary from 15 years on high site, gentle slope terrain to more than 30 years on lower sites with rugged terrain.

VII. Summary

We believe that it is possible to both provide better habitat for old growth dependent species and provide higher yields of high quality timber under H.Q.F. than can be accomplished using allocation techniques which divide the forest into zones of high yield forestry and preservation. While the quantity of timber produced under high yield forestry practiced on many private lands and national forest lands zoned for timber production, is greater than H.Q.F., it is felt that H.Q.F. will provide much higher quality timber that will approximate the total value return of high yield forestry.

High quality forestry is not a alternative to maintaining large contiguous areas of old growth or ancient forest, which are found in great abundance in the national parks and national forest wilderness areas. H.Q.F. can, however, provide significant habitat for species that would be threatened under high yield forestry regimes.

By Gus Kuehne, Northwest Independent Forest Manufacturers

April 16, 1991

EXHIBIT 3

**TIMBER HARVEST PROGRAM FOR
HIGH QUALITY FORESTRY ALTERNATIVE**

**Harvest Schedules, Stumpage Prices, Yields & Quality
for 150 & 200 Year Rotations**

Introduction

This paper will explore in greater detail reforestation cuts and commercial thinnings described in the white paper on High Quality Forestry, dated April 16, 1991. The purpose of the paper is to provide a basis for evaluating the price, quantity, and quality of timber harvested under the High Quality Forestry Alternative and to give direction to the development of the HQF program.

I. Rotational Length

Northwest Independent Forest Manufacturers recommends that rotational lengths of 150 & 200 years be used in analysis of the HQF Alternative. These rotations would be compared to lengths of approximately 100 years used in the Forest Plans for the Olympic and Mt. Baker-Snoqualmie National Forests. It is anticipated that HQF rotational lengths for hemlock on the west side of the Olympic Peninsula would more likely be in the 150 year range, whereas Douglas fir and hemlock sites in other parts of the two forests would be more closer to the 200 year rotational length. The reason for this difference is that significant decay occurs in western hemlock and true fir stands over 150 years old on the west

side of the Olympic Forest.

III. Commercial Thinning Schedules

Commercial thinning schedules should be varied by the species being thinned (Douglas fir - hemlock & other), the rotational length (150-200 years), the slope (tractor or cable ground) and site class (sites 2 thru 4). Table 1 and 2 show the ages and number of thinnings recommended for these varying conditions from as many as seven commercial thinnings on site 2 - gentle slope - Douglas fir stands - 200 year rotation - beginning at age 45 and continuing to age 175, to as few as one commercial thinning - hemlock - low site 4 - Steep slope. Under the proposed schedule on 200 year rotations, most stands on the Olympic Forest would be thinned from three to five times as the bulk of the stands are on steep slopes with most sites from low 2 to low 3. On the Mt. Baker-Snoqualmie Forest, it is anticipated most stands would be thinned from two to four times as sites are somewhat lower and ground steeper.

The length of time between thinnings have been selected in order to produce an average harvest of from 10 to 12/MBF per acre on gentle ground, Douglas fir stands; 12 to 14/MBF per acre on gentle slope, hemlock stands; from 14 to 16/MBF per acre on steep slope Douglas fir stands, and from 15 to 20/MBF per acre on steep slope, hemlock stands.

7. Pruning

Immediately following the first commercial thinning, stands would be pruned using KV cooperative deposits collected on the thinning sales to pay for pruning costs. Pruning is as integral a part of HQF with long rotations, as artificial reforestation is of forest management on 100 year and shorter rotations. While pruning costs are an addition to the costs of reforestation costs, the additional costs of pruning are less than the additional reforestation costs that occurs with shorter rotations. For example, on a 100 year rotation, reforestation costs are double those of a 200 year rotation. A 100 year rotation with artificial reforestation requires reforestation twice as often and is more expensive than reforesting and pruning on a 200 year rotation. In comparing HQF Alternative with current 100 year rotation lengths, pruning costs should only be added if the savings in reforestation costs are also calculated.

It is anticipated pruning would take place with contract crews much as reforestation and other stand improvement work is done. Pruning would be done in Douglas fir stands on all sites mid 4 and above. All co-dominate and dominate trees would be pruned anticipating that all trees which would not be harvested for 30 years or more would be pruned. Thus, it would be expected that in the third, fourth, or subsequent

thinnings virtually all of the trees harvested would have been pruned at the time of the first commercial thinning. In hemlock and true fir stands, all sites mid 3 and above would be pruned. All trees would be pruned to a height of 44 feet allowing for a stump height of 1 foot and a 42" log plus trim. It is anticipated that power-driven mechanical pruning systems, used extensively in New Zealand and Chile would be utilized.

V. Stumpage Prices for Regeneration Harvests

Under the HQF Alternative regeneration harvests would maximize to the extent feasible, shelterwood and seed tree methods. Clearcutting would be limited to areas where seed tree and shelterwood systems would be impractical because of the high likelihood of excessive blowdown or in highly defective stands where slash accumulations were so heavy that the remaining trees would be unlikely to survive slash disposal. It is anticipated that the greater costs of logging operations with seed tree and shelterwood systems would be largely offset with lower reforestation costs. Also, with longer rotations rapid artificial regeneration is not as important to yields.

Table 3 shows the anticipated stumpage price for regeneration harvests at 150 & 200 year rotation ages. Stumpages are based on an index of 1.00 being equal to the

regeneration harvest at age 100 for unpruned stands. In other words, the stumpage price for 100 year old timber that might be clearcut today. Thus, under Table 3 it is the experience of NIFM members who regularly bid on federal, state and private timber, that 150 year old timber sells for approximately 30% more than 100 year old timber on comparable sites and logging conditions. Further that 200 year old timber sells for 50% higher stumpage prices than 100 year old. In addition, it is the judgement of NIFM timber purchasers that pruning would add significant value; i.e., that stands pruned at age 45 and clearcut at age 150 would bring 1.65 times the stumpage of 100 year old unpruned timber and that at age 200 it would bring twice the value of 100 year old. The remainder of Table 3 shows the declining value as the length of time between pruning and regeneration cut declines.

It is conservatively estimated that the current premium for quality will not increase in the future but will remain at approximately the same premium as today. Normally one could expect that as high quality wood becomes scarcer in the future, the premium for quality would increase. Certainly today the spread between clears and dimension lumber is as great or greater than at any time in the past 50 years. Thick cants of export clears sells for ten times or more the price of standard construction lumber. Within the next 50

years or less it is anticipated that there will be virtually no softwood deep clears available anywhere in the world except from pruned stands.

VI. Stumpage Prices for Commercial Thinnings

As with regeneration cuts, stumpage prices for commercial thinnings are expressed as an index with 1.00 equal to the stumpage price for 100 year old timber that would be clear-cut. NIFM timber purchasers have and are currently bidding on commercial thinnings sales and this table is based on that experience. In addition to the differing stumpage prices based on the age of the stand at the time of thinning, there is also a price adjustment for stands which have been pruned at least 30 years prior to the time of pruning. For example, if a Douglas fir stand mid site 3 on gentle slope is thinned at age 55 as shown on Table 1 and the stumpage price index .1 equals \$200/MBF the anticipated stumpage price of this thinning would be \$96 per thousand board feet ($\$200/\text{MBF} \times 0.48 = \$96/\text{MBF}$).

Another example using the pruning price adjustment would be a 150 year old hemlock stand high site 3 on steep ground, thinned the third time at age 120 (initially thinned and pruned at age 60), assuming a stumpage price of \$175/MBF for 100 year old hemlock equals 1.00; the 120 year old thinning would sell for \$131/MBF . . . $\$175/\text{MBF} \times (.70 \text{ stumpage price})$

+ .15 pruning adjustment - .10 steep slope adjustment) =
\$131/MBF.

The pruning price adjustment for thinning sales was estimated based on Table 5 which shows the radius of trees on various sites by age and was used to determine the amount of clear wood in the first 42' log. Depending on site class the first 42' log represents between one-third and two-thirds of the volume in the tree for timber ages 80 to 175, the ages for which the pruning adjustment would be used.

I. Size and Quality

The average size of co-dominate trees is estimated on Table 5 by site class for timber up to 200 years old assuming a thinning schedule for Douglas fir stands. This most favorable condition was used in order to show the maximum growth rings per inch likely to be encountered under the recommended thinning regime.

The soonest we have recommended pruning is immediately following a commercial thinning at age 45 on site 2 or above. Table 5 shows that on high site 2 at age 45, a tree would be 8 inches in radius (16 inches in diameter) at the time of pruning. If this tree were grown to age 200, it is estimated the tree would be 23 inches in radius or put on 15 inches of clear wood. The fastest ring count likely to be

seen would be an average of 8 rings per inch. Initial thinning and subsequent pruning on lower sites would be in older aged timber and ring counts would be higher.

The most restrictive ring counts currently required for high grades of clear wood is 8 or 9 rings per inch. Thus, ring count is unlikely to be a quality problem under the EQF Alternative.

Additional field checking should be done to determine that DBH estimates made of co-dominate trees are realistic given the thinning schedules anticipated.

VIII. Total Yield, Comparison for 100, 150 & 200 Year Rotations

Table 6 is an estimate of the total yields from regeneration and commercial thinning cuts comparing 100, 150 & 200 year rotations by site class. Considerable research needs to be done to verify these estimates. The fourth column under each of the three rotational lengths is the average or mean annual increment for the various site classes which ranges from 850 b.f./acre/year on site 2s to 400 on low site 4, including thinnings. For a 150 year rotation the same sites would be 770 b.f./acre/year to 300 b.f./acre/year and drop even further for a 200 year rotation to an average of 650 b.f./acre/year for the site 2 and above to 290 b.f. for low site 4. Thus, on a 150 year rotation yields are estimated

to decline about 15% and under 200 year rotation approximately 25% from those that could be achieved if using a 100 year rotation. It is estimated that some of this loss in yield would be made up through higher stumpage prices for higher quality timber.

The yields shown in Table 6 have been reduced 10% from those that would be anticipated to be achieved from a strictly maximization of yield basis in order to accommodate wildlife needs of creating snags, down logs, and crown canopy requirements of threatened or endangered species.

Logging Systems

It is anticipated that the "suitable forest land acres" could all be harvested by current skidder and cable logging systems. However, in areas of the Forest Plan which are to remain roadless, new aerial techniques which combine helicopter and lighter than air systems will need to be developed. A portion of the research program under New Perspectives in Forestry is aimed at this research effort.

NIFM feels that these new harvesting techniques combined with the rotation of dispersed recreation areas over a 200 year rotation would allow for roadless areas to be managed for timber production for a portion of the rotation and then provide dispersed roadless recreation for a significant

portion of the rotational length. This may negate thinnings, for example, in the last 50 to 75 years of the harvest in these roadless dispersed recreation areas.

Many examples can be found in the Olympics and North Cascades of harvest units which now provide significant dispersed recreational use. Several harvest areas are included in the North Cascades National Park and in the Olympics. In the Dosewallops Drainage the major recreational trail uses a railroad grade which was harvested approximately 50 years ago. Railroad logged and burned clearcut has now come into beautiful young forest, which most recreational users consider pristine.

When managing forest stands on rotations as long as 200 years, it easily becomes possible to rotate dispersed and even some developed recreational sites, managing them rather intensively for one century and having them provide only dispersed recreational opportunities in the next century.

X. Summary

Much of the data provided in this report is empirical or anecdotal in nature and will require significant input from forest scientists to evaluate its validity. We encourage silviculturalists, growth & yield specialists, timber

utilization specialists, wildlife biologists, and other scientific experts to critique the data provided herein.

TABLE 1

HIGH QUALITY FORESTRY ALTERNATIVE

Commercial Thinning Ages for All Suitable Forest Land
for 200 year Rotations, Douglas fir &
Hemlock Stands, and Gentle & Steep Slopes by Site Index

200 Year Rotation - Douglas Fir (50%+ Vol.)

Site Index	Gentle Slope (35%-)							Steep Slope (35%+)				
	1	2	3	4	5	6	7	1	2	3	4	5
2+	45	60	80	100	125	150	175	50	70	95	125	160
High 3	50	70	95	115	140	170		55	75	100	130	165
Mid 3	55	75	100	120	145	175		60	85	115	155	
Low 3	60	80	105	135	160			65	90	120	160	
High 4	65	85	110	140	165			75	110	150		
Mid 4	70	90	120	155				80	115	155		
Low 4-	75	95	125	160				90	140			

200 Year Rotation - Hemlock & True Firs (50% + Vol.)

2+	45	60	85	110	140	170		55	85	120	160	
High 3	50	75	100	130	160			60	95	140		
Mid 3	55	80	105	135	165			65	100	140		
Low 3	60	85	115	150				75	130			
High 4	65	95	125	160				85	135			
Mid 4	70	105	145					95	140			
Low 4-	80	110	150					115				

TABLE 2

HIGH QUALITY FORESTRY ALTERNATIVE

Commercial Thinning Ages for All Suitable Forest Land
for 150 Year Rotations, Douglas Fir &
Hemlock Stands and Gentle & Steep Slopes by Site Index

150 Year Rotation - Douglas Fir (50%+ Vol.)

Site Index	Gentle Slope (35%-)					Steep Slope (35+)			
	1	2	3	4	5	1	2	3	4
2+	45	60	80	100	125	50	70	90	120
High 3	50	70	95	120		55	75	95	120
Mid 3	55	75	100	120		60	85	115	
Low 3	60	80	105	125		65	90	120	
High 4	65	85	115			75	110		
Mid 4	70	90	120			80	115		
Low 4-	75	110				105			

150 Year Rotation - Hemlock & True Firs (50%+ Vol.)

2+	45	60	85	100	120	55	85	120	
High 3	50	75	100	125		60	85	120	
Mid 3	55	80	100	125		70	110		
Low 3	60	85	115			75	110		
High 4	65	90	120			80	115		
Mid 4	70	110				100			
Low 4-	80	115				105			

TABLE 3
HIGH QUALITY FORESTRY ALTERNATIVE
Stumpage Price Index for Final Harvest Cuts
at Rotation Ages 150 & 200 Years

Age Pruned	200 Year Rotation	150 Year Rotation
Unpruned	1.50	1.30
45	2.00	1.65
50	1.96	1.62
55	1.92	1.59
60	1.88	1.56
65	1.84	1.53
70	1.80	1.50
75	1.76	1.47
80	1.72	1.44

Note: Prune at time of first commercial thinning for all sites Mid 4 and above in Douglas fir stands and all sites Mid 3 and above in Hemlock & True fir stands - Prune all dominants and co-dominants to 44'.

Index 1.00 based on Regeneration Cut at age 100 for unpruned stands.

TABLE 4
HIGH QUALITY FORESTRY ALTERNATIVE
Stumpage Price Index for Commercial Thinnings

Thinning Stumpage Price		Pruning Price Adjustment	
Age of Stand at time of thinning	Price Index (not pruned)	Years since Pruned	Price Index Adj.
45	.38	30	.03
50	.43	35	.05
55	.48	40	.07
60	.53	45	.09
65	.57	50	.11
70	.60	55	.13
75	.61	60	.15
80	.62	65	.17
85	.62	70	.20
90	.62	75	.23
95	.62	80	.26
100	.62	85	.29
105	.64	90	.32
110	.66	95	.35
115	.68	100	.38
120	.70	105	.42
125	.72	110	.46
130	.74	115	.50
135	.76	120	.54
140	.78	125	.58
145	.80	130	.62
150	.82		
155	.84		
160	.86		
165	.88		
170	.90		
175	.92		

Note: Reduce Thinning Stumpage Index 0.10 for Steep Slope

TABLE 5
HIGH QUALITY FORESTRY ALTERNATIVE
Growth Rings Per Inch at DBH for Site Classes under Commercial Thinning Schedule

Inches Radius	Site Classes											
	High 2	Mid 2	Low 2	High 3	Mid 3	Low 3	High 4	Mid 4	Low 4	High 4	Mid 4	Low 4
	Age Per Inch	Age Per Inch	Age Per Inch	Age Per Inch	Age Per Inch	Age Per Inch	Age Per Inch	Age Per Inch	Age Per Inch	Age Per Inch	Age Per Inch	Age Per Inch
2	11	12	14	16	17	18	20	23	28	25		
4	20	24	28	32	36	40	56	55	78	78		
6	32	38	44	50	58	68	88	95	136	136		
8	46	54	62	70	82	98	122	144	200	200		
10	62	72	82	92	108	128	158	200				
12	80	92	104	116	136	162	200					
14	98	112	126	142	166	200						
16	118	134	150	170	200							
18	140	156	174	200								
20	164	180	200									
22	188	200										
24	200											

46"DBH 43"DBH 40"DBH 36"DBH 32"DBH 28"DBH 24"DBH 20"DBH 16"DBH
Co-Dominate Trees at 200 Years with Thinning Schedules - Douglas fir Stands

TABLE 6

HIGH QUALITY FORESTRY ALTERNATIVE

Yield from Rotations of 100, 150 & 200 Years
with Commercial Thinning Schedules
by Site Class
(in thousand board feet, Scribner Scale)

Rotation	SITE CLASS						
	2+	High 3	Mid 3	Low 3	High 4	Mid 4	Low 4
<u>100 years</u>							
Regen.Cut	60	55	50	45	40	35	30
Thin	25	23	20	18	15	12	10
Total	85	78	70	63	55	47	40
MAI	.85	.78	.70	.63	.55	.47	.40
<u>150 years</u>							
Regen.Cut	60	55	50	45	40	35	30
Thin	55	48	40	33	25	20	15
Total	115	103	90	78	65	55	45
MAI	.77	.69	.60	.52	.43	.37	.30
<u>200 years</u>							
Regen.Cut	60	55	50	46	43	40	39
Thin	70	65	56	48	38	28	19
Total	130	120	106	94	81	68	58
MAI	.65	.60	.53	.47	.40	.34	.29

MAI - Mean annual increment.

EXHIBIT 4

900

Cancer drug from trees effective but rare

By Miss Koletta
The New York Times

5/13/91

A new cancer drug that can melt away tumors that resist all other treatments has been found to help many more patients than researchers had realized. But very few people will get the drug because its only source is the bark of a sparsely distributed tree in the Pacific Northwest.

The drug, taxol, is "the most important new drug we have had in cancer for 15 years," said Dr. Samuel Broder, director of the National Cancer Institute in Bethesda, Md. "I'm not saying it's a cure, but I will tell you there are women who failed every other treatment

who responded."

Previous studies showed that taxol, which comes from the Pacific yew, helped some women in advanced stages of ovarian cancer, which kills 10,000 women a year. But the amount of taxol now available is enough to treat fewer than 1,000 patients this year.

It takes six 100-year-old Pacific yews to treat one patient, and the trees are scattered in the underbrush of ancient forests in the Northwest. Most of the trees are too small to be used, and cutting is required to harvest those that are suitable, and many are in danger where logging is prohibited to protect the spotted owl.

The demand for taxol can only

grow because of the promising new results. A study being reported this month has found that it is extraordinarily effective in treating advanced cases of breast cancer, which kills 40,000 women a year. And preliminary results from another study show it is also active against lung cancer, which kills more than 100,000 people a year.

"It's a vast market," said Dr. Bruce Chabner, director of cancer treatment at the National Cancer Institute, which allocates the limited supplies of taxol to researchers. "We can't possibly supply it. At times we have had shortages of other drugs, but nothing like this."

The first striking clinical results for taxol were reported by Dr. Wil-

liam McGuire of the Johns Hopkins University School of Medicine in 1989. He studied 48 women with ovarian cancer that was impervious to standard chemotherapy. The women had only months to live, but when they received taxol, 30 percent of them responded to the treatment, and their tumors shrank by more than half. One woman's cancer disappeared.

The drug kills cells in a way that researchers never have seen before, by stopping the cells from forming a scaffold that is needed when they pull their halves apart in dividing.

Taxol was discovered about 20 years ago in a test program at the National Cancer Institute.

EXHIBIT 5

EMPHASIS PROGRAM

USDA FOREST SERVICE, PACIFIC NORTHWEST RESEARCH STATION

NEW PERSPECTIVES IN FORESTRY: AN ECOLOGICAL PATH FOR FOREST MANAGEMENT

"New Perspectives in Forestry: An Ecological Path for Forest Management" is the Pacific Northwest's *new program for research, development, demonstration and applications using an interdisciplinary approach to develop alternative ways to manage forest lands*. More complete incorporation of ecological and social values into stand and landscape level practices is *expected to reduce future conflicts among competing economic, social, and environmental interests*. This program is a joint effort of the Pacific Northwest Research Station and the Pacific Northwest Region of the USDA Forest Service, the University of Washington's Olympic Natural Resources Center, the Consortium on the Social Values of Natural Resources, Oregon State University, the H.J. Andrews Experimental Forest, and the Aerial Forest Management Foundation. Other major cooperators will include the Washington State Department of Natural Resources and other private, state, and federal agencies. The Pacific Northwest program is managed by a program manager and a Board of Directors composed of the heads of agencies or organizations which are making major resource investments in the program.

More specifically, the cooperators in this RD&A effort are involved in many ways: (1) the *Olympic Natural Resources Center*, University of Washington, is a major focal point for stand and canopy level research as well as other efforts, (2) the *H.J. Andrews Experimental Forest* is a major focal point for landscape level research as well as other research and involves the Forest Service, Oregon State University, and others as prime cooperators, (3) the *Aerial Forest Management Foundation* is a major cooperator on retrospective studies and harvesting and engineering methodology as is the *PNW Station/University of Washington Forest Engineering Cooperative*, (4) the *Consortium for the Social Values of Natural Resources*, a multi-organizational effort, is the focal point for the RD&A for social research, (5) the *Program for Sustainable Forest Systems* at Oregon State University, with the Pacific Northwest Station as cooperator, puts a major emphasis on supporting the Consortium for Social Values (in #4 above) and key research focusing on multi-resource management decision-making tools and other critical forest management information needs particularly at the landscape level, (6) the *Northwest Independent Forest Manufacturers* who are emphasizing long rotation forestry for high quality forest products, and (7) the *Pacific Northwest Region and Station* are major cooperators in RD&A research, demonstrations, and technology transfer.

In 1992 the program will include:

—*Economic Factors*—economic evaluation of alternative stand and landscape management scenarios including macro-economic and community effects to allow understanding of the impacts of potential alternative land management practices.

—*Social Impacts and Values*—evaluation of public acceptability of alternative stand and landscape management scenarios and methods for better, more representative public participation in related decision-making.

—*Landscape Level Modelling/Scenarios/Relationships*—to allow better land management decisions to initiate an interdisciplinary multi-institutional effort to develop and evaluate hydrological, ecological and wildlife responses to various landscape management scenarios; economic and social responses are integrated also.

REVISED 3/4/91

—Retrospective Studies—examine effects of well-documented past timber harvesting practices, patterns, and rates on long-term forest ecologic and hydrologic responses; model these responses and associated cumulative effects; relate resulting interim guidelines to future prescriptions for management to provide for outcomes that are more predictable and ecologically sound.

—Stand Level/Organism Research—a number of basic research efforts including: refinements of old growth/ natural forest attributes and management guides; installation of long-term site productivity (LTSP) studies; research on spotted owl use of "non-old growth"; the ecological role/impacts of mycorrhizal fungi; coarse wood decay processes; avian and macro invertebrate ecology in various forest stand conditions. All results to contribute to land management principles and guidelines that more completely assure maintenance of long-term ecosystem integrity and biodiversity.

—Ecological Canopy Processes—develop innovative access and research efforts to define the role of forest canopy development and dynamics in forest ecology. This little understood aspect of forest ecology will be emphasized through long- and short-term innovative studies of canopy closure, canopy wildlife and arthropod communities, detailed studies of canopy physical influences on forest ecology, including possible global climate change impacts, etc. The results will be related to forest floor ecology to clarify canopy/understory/ forest floor ecosystem function and life relationships and how these must be considered in forest management decisions.

—Engineering and Harvesting—accumulate and analyze current information on forest engineering and harvesting with particular emphasis on potential ability to further minimize cumulative negative effects, improve forest conditions, and sustain ecosystem integrity. Study potential for aerial forestry systems applications in alternative silviculture and stand diversity enhancement.

—Forest Health—analyze the problem of wildland protection (from fires, diseases, insects, other catastrophic events) in relation to existing or planned holistic, ecology-based land management at the stand and landscape level. Develop a plan for wildland protection research and development efforts as part of the New Perspectives R&D effort in the Pacific Northwest. Initiate a series of land protection studies as part of an overall integrated multi-resource management R&D program for New Perspectives.

—Integrated Multi-Resource Management Decision-making Tools—research will develop a system framework for integrating existing resource management models, guidelines and data systems into a landscape level, ecosystem-process based multi-resource management decision-making tool. This will allow integrated multi-resource management decision to be made with the best information with all known factors considered.

—Workshop/Communications/Technology Transfer—in close cooperation and coordination with the Pacific Northwest Region and other cooperators, the program will conduct workshops, develop guidelines and publications, provide tours and speeches, etc., in order to transfer existing New Perspectives technology to the user groups and acquire feedback on user needs/problems to calibrate the research and development program. A New Perspectives communication plan for the PNW/R-6 will be completed and implemented.

—Demonstrations—key New Perspectives demonstration sites will be selected and installed in the Pacific Northwest Region, in cooperation with partners, to showcase New Perspectives practices and procedures.

—Public Outreach and Participation—begin a major program on public participation and involvement with New Perspectives program and related land management decision-making (includes public information program at designated "learning centers," surveyed of public opinion, etc.).

The proposed FY 1991 research and development effort is very modest in relation to the magnitude and seriousness of the ecological, socio-economic, and management questions to be answered. Without an array of improved tools, management guidelines, knowledge of ecosystem function and sensitivity, refined

public participation methods, and information sharing procedures, all of which need to be developed and implemented, continued conflicts between the public, land managers, and competing economic, social, and environmental interests can be expected.

Impacts of the reductions in New Perspectives research and development will total \$1,150,000 and result in loss of approximately 10 scientists in the PNW Station. (4-Corvallis, OR, 1-Portland, OR, 3-Olympia, WA, and 1-Seattle, WA).

STATEMENT FOR THE RECORD
OF
BETTY OREM

Good afternoon, my name is Betty Orem. I am a lifetime resident of Port Angeles, Washington and a trustee for the Harold M. and Betty F. Orem Trust. Its corpus is a 27-acre stand of trees which abuts the Olympic National Forest and is classified as a tree farm.

My father purchased the land in 1928 from Mr. Joe Duke, who was the original homesteader on the property. Mr. Duke had only cut trees to provide firewood for himself, to build his house, and to prevent trees from falling on his house. After my father bought the land, he cut only one tree a year for firewood. My husband and I used the trees that Mr. Duke had felled and left on the land to build our house. The timber stand has otherwise never been cut.

The trees on the property form a triple canopy of old growth, second growth and understory. Some of the trees are over 300 years old; most are Douglas Firs.

In April and May 1989, the Forest Service carried out a clear cut operation in the National Forest next to my property. While burning the slash from the clear cut, the Forest Service burned and otherwise damaged a number of my trees. The damage will impede the future growth of these trees. Moreover, they will eventually become diseased and spread disease to other trees if they are not removed.

I paid for an appraisal of the damaged trees and filed a claim for damages with the Forest Service in May 1989. The damaged trees were valued at \$2518.00. In November 1989, the

Forest Service notified me that my claim had been received but that additional information was needed before it could be processed, including documentation that I had mitigated the damage by selling any salvageable material.

It became important to remove the scorched and otherwise damaged trees, not only to comply with the Forest Service demands, but also to prevent the spread of disease to other trees. I was also advised that I should conduct routine thinning on my property in order to maintain the value of the remaining timber stand.

I contacted David Erickson, the owner and operator of Erickson Busheling, Co., a contract logging company in Port Angeles, and he agreed to remove the damaged timber and to conduct the thinning operations. We submitted a Forest Practices Application for approval to conduct these activities to the State of Washington Department of Natural Resources (DNR) in September of 1990. Also in September of 1990, almost a year and a half after I had originally submitted my claim, the Forest Service approved my claim for the damaged trees, but paid me only \$2287.00.

I was subsequently notified by the DNR that there was a Northern Spotted Owl nest in the Olympic National Forest about a half mile from my property line. I was told that because of the nest, the State of Washington Department of Wildlife would have to inspect my property and evaluate my application before it could be approved.

In January of 1991, I discovered that the DNR and the Department of Wildlife would allow me to perform only a portion of the cutting I had originally requested and not enough to preserve the value of the tree farm. I notified the Department of Wildlife that I would accept these conditions only under protest.

Finally, on March 6, 1991, the DNR formally notified me of the activities that would be permitted on my property. The restrictions imposed are as follows: (1) any road construction or harvest activity is restricted to the time period of September 30 through March 1; (2) within 100 feet of the south property line, only blown down, fire damaged, and killed timber or timber damaged from the previous Forest Service harvest are allowed to be cut; (3) no standing timber in excess of 30 inches in diameter may be felled without prior approval from the Department of Wildlife and the DNR; and (4) the DNR must be notified 48 hours in advance of any timber harvest activities on the site. The approval also states that the conditions on this application do not insure compliance with the Federal Endangered Species Act.

These restrictions are effectively a denial of my application. It will be impossible to access my property to conduct the activities, since they are only allowed during the wet season.

The DNR has since modified the restrictions to allow road construction and timber harvesting from August 31 to February 15. In spite of these changes it is still next to impossible to

conduct timber harvesting activities.

The trees damaged by the Forest Service operations have already become diseased and have lost any salvage value. Since I am unable to perform any thinning, the value of the other trees on my property is dropping. DNR has relied on unlawful regulations which I and others have challenged in litigation to impose these restrictions on my property. Moreover, I fear an Endangered Species Act Section 9 enforcement action based on the same unlawful regulations if I do not comply with the restrictions. I urge this Subcommittee and the Congress to intervene in this issue and bring some sanity back to the interactions between small, private landowners like myself and the federal and state governments. I would like to be able to manage my land in an environmentally sensitive fashion. But I am presently being prevented from practicing good forestry by the government agencies that should be encouraging my efforts.

(Attachment follows:)

ATTACHMENT TO THE

**STATEMENT FOR THE RECORD
OF
BETTY OREM**

BEFORE THE

**SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENE
COMMITTEE ON AGRICULTURE**

OF THE

UNITED STATES HOUSE OF REPRESENTATIVES

MAY 30, 1991

ADDRESS OF PROSPER OSTROWSKI, MAYOR PRO TEM, CITY OF PORT ANGELES
ALL TIMBER DEPENDENT COMMUNITIES
AND MULTIPLE-USE ADVOCATES

TO: FISH AND WILDLIFE SPOTTED OWL HEARING
THURSDAY MAY, 23, 1991

On behalf of the City Council and the citizens of Port Angeles, I would like to express our concerns on the current proposal by Fish and Wildlife to designate 536,000 acres of the Olympic Peninsula as critical habitat for the spotted owl. THIS PROPOSAL GOES TOO FAR.

Being the major center of population, commerce, and employment on the Peninsula, our dependence on the timber industry is obvious and cannot be denied. As with other critical issues we must face, Port Angeles has been prepared to face the establishment of a workable, environmentally balanced critical habitat area for the spotted owl. While we recognize the need to establish environmental balance on the Peninsula, we distinguish that it should not be at such expense to our economic balance as would result from the current proposal. This proposal, WHICH GOES TOO FAR, can only create a devastating "economically" critical habitat for the 18,000 citizens of Port Angeles and thousands more who live on the Peninsula. Our concerns are:

1. The current proposal - will cause the shut-down of two pulp mills which are among our major employers. Seven hundred and seventy jobs will be directly affected.
2. The current proposal - will result in the loss of hundreds of other jobs in service industries throughout our community. This could reach 40% to 50% of our current labor force.
3. The current proposal - will result in vast and unrecoverable sales tax revenue losses. These taxes are essential to the provision of public services provided by the City of Port Angeles.
4. The current proposal - will result in a 70% reduction in timber revenues to junior taxing districts, including schools, fire districts, hospitals, libraries, and others.
5. The current proposal - together with the issues of banning log exports and the potential for removal of dams on the Elwha River, will have a dramatic impact on the quality of life for all our citizens and perhaps the survival of our City.

It is our hope that the current proposal be modified to balance the importance of environmental concerns with the essential economic concerns of the public. The current proposal **HAS GONE TOO FAR** and will establish an economically uninhabitable City of Port Angeles.

PW.353

OREGON LANDS COALITION

Putting People Back into the Environmental Equation ■ 280 Court Street NE, Suite 5, Salem, OR 97301 ■ (503) 263-8582 ■ fax: (503) 263-4067

FORESTS, FAMILY FARMS AND ENERGY

May 30, 1991
Testimony of

Cheryl Osborne
OREGON LANDS COALITION
280 Court St NE, Suite 5
Salem, OR 97301

Chairman Volkmer and Committee Members:

My name is Cheryl Osborne. I am a resident of Oakridge, Oregon, a timber community in the Cascade Mountains, just east of Eugene. My testimony today is on behalf of the 72,000 Oregon families united by the Oregon Lands Coalition.

My community, as well as virtually every other community in Western Oregon outside the Portland metropolitan area, has been living in a suspended state of fear, anger, and frustration for over two years. While all three branches of our federal government have been playing out the ruse of the spotted owl, our communities have been explicitly excluded from the processes. The laws governing forest management were written and are now being administered and interpreted specifically excluding people.

This notion may have seemed necessary in the context of twenty or thirty years ago, when it seemed there was little control of development. But today, just the opposite is true. Today, families and communities are the endangered species because there is no provision in the law to take our needs into account.

The contributions of our communities to the American society are many and significant. Our work ethic, our sense of community and patriotism, our heritage and traditions, our skilled workers and our crafts are each a vital part of America. To allow the continued demise of our towns would be more than shameful--we believe it would be criminal.

"Community stability" is a phrase we detect has not received much respect since Congressman Bob Smith first introduced this bill on our behalf nearly one year ago. We are outraged at the lack of consideration current legislative debates gives people and communities. We strongly suggest that "community stability"

Issues: Natural Resources Group ■ CGO - Central Oregon ■ CGO - Sweet Home ■ CGO - Mill City ■ CGO - Polk County ■ Eastern Oregon Mining Assn
Corps Resource Coalition ■ Horse Council of Oregon ■ Molalla Timber Action Committee ■ Nahalem Valley Timber Coalition
Northwest Timber Workers Resource Council ■ Oregon Cattlemen's Assn ■ Oregon CattleWomens ■ Oregon Farm Bureau
Oregon Forest Products Transportation Assn - Linn-Benton ■ Oregon Forest Products Transportation Assn - Stark Assn ■ Oregon Fur Takers
Oregon Project - Curry County ■ Oregon Project - Douglas County ■ Oregon Project - Portland Metro ■ Oregon Sheep Growers Assn
Oregon Women for Timber ■ Oregon Women for Agriculture ■ Oregonians for Food and Shelter ■ Oregonians for Resources
Philomath Information Action Committee ■ Forest Industries Now Endangered ■ Save Our Sawmills ■ Southern Oregon Alliance for Resources
Southern Oregon Resource Alliance ■ Grants Pass ■ Southern Oregon Resource Alliance - Roseburg ■ Third Force for Forestry
Timber Employees Assn for Responsible Solutions ■ TREES - Coastal Chapter ■ Voters for Oregon Timber Resources ■ Willows County CattleWomen
Willows County Stockgrowers ■ West Valley Citizens for Timber ■ Women for Multiple Use of Our Resources
Workers of Oregon Development ■ Yellow Ribbon Coalition

Cheryl Osborne
Page Three

The list goes on to include:

Black Hills Forest Resource Association
Rapid city, South Dakota

Alabama Forestry Association, Inc.
Montgomery, Alabama

United Paperworkers International Union
Local No. 42
Eau Claire, WI.

Shasta Alliance for Resources and Environment
Redding, CA

Associated Contract loggers
Eveleth, MN.

Washington Contract Loggers Association
Olympia, Washington

Wyoming Public Lands Council
Casper, Wyoming

The Louisiana Forestry Association
Alexandria, Louisiana

Colorado Timber Industry Association
Grand Junction, Colorado

Copies of these communications have been provided to the committee staff.

The Oregon Legislature is also completing a joint memorial to congress urging Congressional support of the objectives of the community Stability Act. This memorial has already passed the House 49 to 11, and was unanimously supported by the Senate Trade and Economic Development Committee 7 to 0 last week. We expect passage by the full Senate within the next two weeks.

On behalf of the Oregon Lands Coalition and thousands of communities across America, we urge you in the strongest possible terms to support HR 1309, the Community Stability Act of 1991. It is inconceivable to us that you can do any less.

We also strongly support the Forest and Families Protection Act of 1991 (HR 2463) and repeat our total opposition to HR 842 and HR 1590.

In closing, I will repeat the appeal made to the National Parks and Public Lands Committee on April 25, 1991. Please, bring your committee to the Northwest and hold hearings in the region that will be impacted in every way by your decisions. The very Americans whose lives you are deciding deserve the opportunity to have their say but your hearing, some 3,000 miles away does not provide them with that opportunity. Please, schedule field hearings on these very important proposals at your earliest possible convenience.

(Attachments follow:)

AS 10/1/90 0013 FROM U. R. JOHNSON
 10/1 10 01 NEW 10:40

TO 12824632708

P.08
 P.01



GEORGIA FORESTRY ASSOCIATION, INC.

500 Pinnacle Court • Suite 505 • Norcross, Georgia 30071-3634 • (404) 416-7621

Dr. Leon A. Hargreaves, Jr.
President

Bob Isler
Executive Director

August 29, 1990

Mrs. Evelyn Sadger
 Oregon Lands Coalition
 280 Court Street, N.E.
 Suite 5
 Salem, Oregon 97301

Dear Evelyn:

Georgia Forestry Association supports putting people back into the environmental equation. We are very much in support of the Community Stability Act of 1990, H.R. 4909. Our federal government has long encouraged the wise use of our natural resources. Generations of landowners, mill operators and loggers have trusted the government and invested their wealth and human capital in endeavors which depend on natural resource management. Now is not the time for the federal government to violate this trust.

Enclosed are signatures on the petition you need when you go to Washington.

Sincerely,

BI/co

cc: Exec

05/30/1990 08:15
FRI-20-91 WED 19:43

FROM U. A. JOHNSON

TO 12824632788

P. 35

Alabama Forestry Association, Inc.

 255 Alabama Street □ Montgomery, Alabama 36104
 (205) 265-8733


August 27, 1990

Ms. Evelyn Badger
 Oregon Lands Coalition
 280 Court Street NE, Suite 5
 Salem, OR 97301

Dear Ms. Badger:

The Executive Committee of the Alabama Forestry Association met on August 14 and considered your request that our association endorse the "Community Stability Act of 1990."

It is my pleasure to inform you that the Committee unanimously supported your request. We are pleased to become a part of your effort and we look forward to working with you in this endeavor.

Sincerely,

John McMillan
 Executive Vice President

JM/so

CHAIRMAN URSULA B. GALT Vice President JAMES H. GALT Secretary JAMES H. GALT Treasurer JAMES H. GALT Executive Director JAMES H. GALT	ALAN KELL Secretary JAMES H. GALT Treasurer JAMES H. GALT Executive Director JAMES H. GALT	WILLIAM E. JOHNSON Vice President JAMES H. GALT Treasurer JAMES H. GALT Executive Director JAMES H. GALT	CHAIRMAN URSULA B. GALT Vice President JAMES H. GALT Secretary JAMES H. GALT Treasurer JAMES H. GALT Executive Director JAMES H. GALT	JAMES H. GALT Vice President JAMES H. GALT Treasurer JAMES H. GALT Executive Director JAMES H. GALT	JAMES H. GALT Vice President JAMES H. GALT Treasurer JAMES H. GALT Executive Director JAMES H. GALT	JAMES H. GALT Vice President JAMES H. GALT Treasurer JAMES H. GALT Executive Director JAMES H. GALT
--	--	--	--	---	---	---

85-10-1091 08116 FROM U. R. JOHNSON
 081-20-01 NEW 10-41

TO 12024632700

P.07

THE GREAT SAND DUNES NATIONAL MONUMENT IN THE SAN LUIS VALLEY OF COLORADO



ALAMOSA COUNTY
 ALAMOSA, COLORADO 81101

County
 Commission

Board of
 Commissioners
 P.O. Box 170
 505-3041

August 6, 1990

Administrator
 P.O. Box 170
 505-4540

Oregon Lands Coalition
 280 Court Street NE #5
 Salem OR 97301

To Whom It May Concern:

Public Health
 and Land Use
 P.O. Box 170
 505-3012

The Board of Alamosa County Commissioners unanimously supports
 HR4909, a Community Stability Act. This bill would
 economically aid communities dependant on natural resources
 and protect those communities from devastation.

This bill would help stabilize communities and balance natural
 resources.

Planning Service
 700 Fourth St.
 505-6239

Sincerely,

BOARD OF ALAMOSA COUNTY COMMISSIONERS

Rec'd Service
 P.O. Box 1206
 505-3501

Robert Zimmerman
 Robert Zimmerman
 Chairman

Read & Bridge
 1520 17th St.
 505-6282

file: CSA Suggestion

09/12/1990 08:17 FROM U. A. JOHNSON
 09/12/1990 14:06 P&T LADYSMITH

TO

Inter WEBB of A

Affiliated with American Federation
 of Labor - Chapter of Industrial
 Organizations and Canadian Labor
 Program



Name Ronald Jacobson
 Local Union No. 3-363
 Mailing Address E. Warden Ave
or Ladysmith W.I.
 Date 9-13 to 90 2nd Class SYR.

"Resource-dependent communities desperately need the protection that the COMMUNITY STABILITY ACT of 1990 (HR 4909) would provide. This legislation is needed to PROTECT THE JOBS OF THE WORKING MEN AND WOMEN WHOSE LIVELIHOOD DEPENDS UPON NATURAL RESOURCES. This bill would protect people as the Endangered Species Act protects plants and animals that depend on certain natural resources. We strongly support this bill."

Ronald Jacobson
 (President)

09/20/1991 09:18 FROM U. R. JOHNSON

TO 12024632780

P.09



UNITED PAPERWORKERS INTERNATIONAL UNION

LOCAL No. 42

EAU CLAIRE, WIS.

Sept 8 19

Resource dependant communications need the protection that the Community Stability Act of 1990 (HR 4909) would provide. This legislation is needed to protect the jobs of the working men and women whose livelihood depends upon natural resources. This bill would protect people as the Endangered Species Act protects plants and animals that depend on certain natural resources. The members of my Local and I strongly support this bill.

UPIU Local 42
Members - 564
Eau Claire, WI 54703

William Carlson, President
1138 Pershing
Eau Claire, WI 54703

*President of Local 42
William Carlson*

5/30/1991 08:18
20-01 MED 15:42

FROM U. A. JOHNSON

TO 12024632700

P.03

Black Hills Forest Resource Association

9040 West Main Street, Suite 310
Rapid City, South Dakota 57708
(605) 341-0875

July 17, 1990


Ms. Evelyn Badger
Oregon Lands Coalition
280 Court Street, Suite 5
Salem, OR 97301

Dear Ms. Badger,

You may include the Black Hills Forest Resource Association as
strongly supporting the Community Stability Act of 1990.


Tom Troxel
Director

05/30/1991 09:12 FROM U. A. JOHNSON TO 12024632700 P. 11 P. 04



PRESIDENT
BOB LUTTEN
200 N. HWY 89
GILLETTE, WY 82401

VIC-PRESIDENT AT LARGE
GARY BRIDGES, FORT LARAMIE

PRESIDENT-ELECT
GARY BRIDGES, FORT LARAMIE

REGIONAL VICE PRESIDENTS
1. FRANK CHAPMAN, CASPER
2. JIMMY GORDON, CASPER
3. JIMMY GORDON, CASPER
4. JIMMY GORDON, CASPER

EXECUTIVE DIRECTOR
CAROLYN FARRINGTON, CASPER

WYOMING WOOL GROWERS ASSOCIATION
211 N. GLENN ROAD • P.O. BOX 115 • PHONE 307-265-5250 • CASPER, WYOMING 82401

Membership: 970

November 12, 1990

Oregon Lands Coalition
280 Court Street, NE 35,
Salem, OR 97301

Dear Staff:

Resource-dependent communities in Wyoming and in the West desperately need the protection that the COMMUNITY STABILITY ACT of 1990 (HR 4909) would provide. This legislation is needed to PROTECT PEOPLE WHOSE LIVELIHOOD DEPENDS ON NATURAL RESOURCES -- just like the Endangered Species Act protects animals that depend on certain natural resources. We strongly support this bill.

Name WYOMING WOOL GROWERS ASSOCIATION

Address P.O. BOX 115

City CASPER, WY 82602

Telephone Number 307-265-5250 Fax 234-9701

f: (307) 234-9701

3/30/1991 09:20
26-01 WED 16:43

FROM U. R. JOHNSON

TO 12024632700

P. 13

RESOLUTION IN SUPPORT OF COMMUNITY STABILITY ACT OF 1990 (HRA)

- WHEREAS, America's rural communities are dependent upon the natural resources on public (federal) lands; and,
- WHEREAS, natural resources provided by the management of our public lands are important to the economy and prosperity of the nation; and,
- WHEREAS, resource-dependent communities of the nation are not adequately considered when federal land management agencies decide on outputs from these public lands; and,
- WHEREAS, federal land management agencies are reducing the outputs of the federal lands far below sustainable levels without regard for natural resource-dependent communities; and,
- WHEREAS, planning for outputs from public lands is not done with the best interests of the nation or resource-dependent communities in mind; and,
- WHEREAS, to insure natural resource-dependent communities are protected, there should be laws to direct public agencies to consider the effect of their actions on these communities; and,
- WHEREAS, rural communities are an important part of the culture and economic base of the nation;

BE IT RESOLVED, that Wyoming Wool Growers Association is in full support of national legislation to give explicit consideration to natural resource dependent communities in the federal land planning process. Recognition of these communities should come in the form of identifying minimum production levels which should be produced from lands surrounding these communities. These communities should also be given maximum consideration during any planning process which would affect output production from public lands.

BE IT ALSO RESOLVED, that Wyoming Wool Growers Association has been presented the Community Stability Act of 1990 as developed by the Oregon Lands Coalition. We understand this act calls for recognition of resource dependent communities, sets minimum output levels, and gives them maximum consideration in planning efforts. With this in mind, the Wyoming Wool Growers Association fully endorses and supports the Community Stability Act of 1990.

05/30/1991 08:28 FROM U. R. JOHNSON
MAY-29-91 WED 15:32

TO 12024632700

P.14

SHARE



SHasta Alliance for Resources & Environment

1337 "A" Hartnell Avenue
Redding, CA 96002

SHARE is a autonomous committee of
The Greater Redding Chamber of Commerce

916/223-2952
FAX 916/223-2971

May 8, 1991

Oregon Lands Coalition
280 Court Street, NE 06
Salem, OR 97301

Dear Friends,

Please list SHARE (the SHasta Alliance for Resources & Environment) among the organisations in support of The Community Stability Act, HR 1309.

Sincerely,

Donald C. Chapman
General Chairman

cc: Congressman Wally Herger

SHARE is an autonomous committee of the Redding Area Chamber of Commerce. SHARE was organized over five years ago as leaders of the community became aware of the threat to our way of life evolving from changes in land management policies and resource management policies. We have about 150 dues-paying entities (representing thousands of individuals) and a mailing list of about 1800 local citizens. Our membership includes locally-elected government officials, educators, planners, attorneys, health-providers, bankers, retail business persons, realtors and contractors, labor union officers, recreationists and resort operators, foresters, and timber company officials. SHARE is a broad-based general interest community organization.

88-18-1121 88-21
MAY 28 91 MED 15:33

FROM V. R. JOHNSON

TO 12924632700

P. 14
P. 05



AN ORGANIZATION OF LOGGERS WORKING TOGETHER
FOR THE PROSPERITY OF THE ENTIRE INDUSTRY

"Resource-dependent communities like those in Minnesota desperately need the protection that the **COMMUNITY STABILITY ACT** of 1991 (HR 1309) would provide. This legislation is needed to **PROTECT PEOPLE WHOSE LIVELIHOOD DEPENDS ON NATURAL RESOURCES** — just like the Endangered Species Act protects animals that depend on certain natural resources. We strongly support this bill."

Denise Ramsey, Administrator
Associated Contract Loggers, Inc.
2810-1 Hwy 37
Eveleth, MN 55724
(218) 744-5633

2010-1 HWY 37, EVELETH, MN 55724 (218) 744-5633

05/30/1991 09:22 FROM U. R. JOHNSON
MAY-29-91 WED 15:36

TO 12824632700

P.12 P.10



State Officers: President: Bob Lloyd of Twisp
Vice-Pres: Bill Burgess of Leavenworth
Treas: Kevin Morris of Shelan
Sec: Gary Waltenburg of Okanogan
Asst. General Manager: William Finkel

May 10, 1991

Ms. Evelyn Badger
Oregon Lands Coalition
280 Court Street NE Suite 5
Salem, OR 97301

Dear Evelyn,

The Washington Contract Loggers Association unanimously supports the Community Stability Act of 1991. Please include our association among your list of supporters.

We shall endeavor to circulate the bill and your info sheet throughout our state and also to solicit signatures for the petition. We totally agree that common sense must prevail in the management of our natural resources and our communities must be protected from the insanity of the preservationist movement.

Keep up the good work.

Sincerely,

Bill Pickell

Bill Pickell
General Manager

BP/ej

1723

2421 Pacific Avenue • P.O. Box 2166 • Olympia, Washington 98507-2166

..... (206) 489-2421 FAX (206) 482-9444



November 12, 1990

Oregon Lands Coalition
280 Court Street, NE 38,
Salem, OR 97301

Dear Staff:

Resource-dependent communities in Wyoming and in the West desperately need the protection that the COMMUNITY STABILITY ACT of 1990 (HR 4808) would provide. This legislation is needed to PROTECT PEOPLE WHOSE LIVELIHOOD DEPENDS ON NATURAL RESOURCES — just like the Endangered Species Act protects animals that depend on certain natural resources. We strongly support this bill.

Name WYOMING PUBLIC LANDS COUNCIL

Address P.O. BOX 115

City CASPER, WY 82502

Telephone Number 307-265-5280 Fax 234-9701

AFFILIATED WITH THE PUBLIC LANDS COUNCIL, WASHINGTON, D.C.
 THROUGH THE COOPERATIVE EFFORTS OF THE
 WYOMING STOCK BROWERS ASSOCIATION AND THE WYOMING WOOL BROWERS ASSOCIATION

5/30/1991 00:23 FROM U. R. JOHNSON
MAY-29-91 WED 15:38

TO 12024632700

P.17 1.00

RESOLUTION IN SUPPORT OF COMMUNITY STABILITY ACT OF 1990 (HRA

WHEREAS, America's rural communities are dependent upon the natural resources on public (federal) lands; and,

WHEREAS, natural resources provided by the management of our public lands are important to the economy and prosperity of the nation; and,

WHEREAS, resource-dependent communities of the nation are not adequately considered when federal land management agencies decide on outputs from these public lands; and,

WHEREAS, federal land management agencies are reducing the outputs of the federal lands far below sustainable levels without regard for natural resource-dependent communities; and,

WHEREAS, planning for outputs from public lands is not done with the best interests of the nation or resource-dependent communities in mind; and,

WHEREAS, to insure natural resource-dependent communities are protected, there should be laws to direct public agencies to consider the effect of their actions on these communities; and,

WHEREAS, rural communities are an important part of the culture and economic base of the nation;

BE IT RESOLVED, that Wyoming Public Lands Council is in full support of national legislation to give explicit consideration to natural resource dependent communities in the federal land planning process. Recognition of these communities should come in the form of identifying minimum production levels which should be produced from lands surrounding these communities. These communities should also be given maximum consideration during any planning process which would affect output production from public lands.

BE IT ALSO RESOLVED, that Wyoming Public Lands Council has been presented the Community Stability Act of 1990 as developed by the Oregon Lands Coalition. We understand this act calls for recognition of resource dependent communities, sets minimum output levels, and gives them maximum consideration in planning efforts. With this in mind, the Wyoming Public Lands Council fully endorses and supports the Community Stability Act of 1990.

05/28/1991 08:24 FROM U. R. JOHNSON
MAY-29-91 WED 16:34

TO 12824632708

P. 1/1



The Louisiana Forestry Association

TELEPHONE A.D. 515 448-0888 P.O. DRAWER 8087 ALEXANDRIA, LOUISIANA 71307-0887

September 6, 1990

HAROLD L. HUMPHRIES
President
West Monroe, LA

CARROL W. COCHRAN
1st Vice President
Baton Rouge, LA

JOHN H. GERBER
2nd Vice President
De Ridder, LA

PAUL J. HARPER
3rd Vice President
De Ridder, LA

WALTER J. THOMPSON
Treasurer
Lumberton, LA

CHARLES A. VANDERSTEEN
Executive Director
Alexandria, LA

GEORGIANN GULLETT
Editor/Info. Coordinator

MORENE SIEGELMANN
Administrative Assistant
Alexandria, LA

Oregon Lands Coalition
280 Court St. NE, Suite 5
Salem, Oregon 97301

Dear Colleagues,

The Louisiana Forestry Association is a trade association representing 2,000 forest landowners, loggers, and forest products industries both large and small. We unequivocally support the Community Stability Act of 1990 (HR-4909) and have urged the Louisiana Congressional delegation to support the legislation. You may use our name as one of the grass-roots co-sponsors of this important initiative.

Please call upon me whenever I can be of assistance to you.

Sincerely,

Charles A. Vandersteen

C. A. Vandersteen
Executive Director

CAV/and

85/18/1991 80125 FROM U. R. JOHNSON
 MAY 28-01 MED 15:33

TO 12024632700

P. 19
 P. 00

P.O. BOX 596
 GRAND JCT., COLO. 81502
 (303) 241-9244



July 19, 1990

Evelyn Badger, Secretary
 Board of Directors
 Oregon Lands Coalition
 280 Court Street NE, Suite 5
 Salem, OR 97301

Dear Evelyn,

The Colorado Timber Industry Association supports R.R.4909 as a productive and responsible piece of legislation that will protect the social and economic well-being of natural resource dependent communities nationwide. We applaud your coalition's effort to gain widespread support for this Bill.

Sincerely,

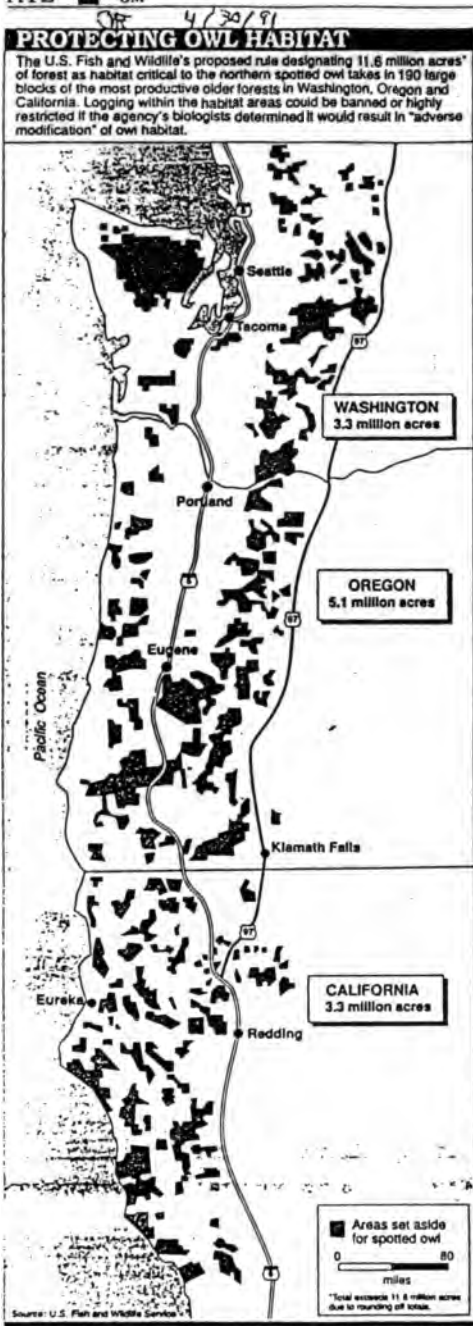
Kevin W. Cain
 Acting Vice President
 Colorado Timber Industry Association

Jerny East

SPOTTED OWL MITIGATION PLAN SUMMARY

PROGRAM	JOB	FUNDING SOURCE
Federal Forest Investment	3,000	US Congress \$100,000,000
Intensive Forest Management on Private Lands	500	Tax incentive and Private Investment
Hardwoods Development	200	Private
Special Forest Products Development	500	Private
Yew foliage and Taxol Extraction	1,000	Private/Public
Rural Economic Development	20	State/Private
National Recreation Zone	Unknown	Federal/Private
Mediation	10	State/Federal/Private
County Revenue Sources	Unknown	County/State/Federal

1. Federal Investment in Federal Forests.



Timber: Analysis draws sharp criticism

FOREST SERVICE BRIEFING PAPER
REGION 6
5/30/89

- TOPIC:** - If the Oregon economy takes a downturn, due to a restriction in the supply of timber from Forest Service System lands, what could the PNW Region of the Forest Service do to stimulate employment?
- DISCUSSION:**
- The acceleration of programs to offset employment cut backs is desired if timber supply restrictions continue.
 - In the face of an unstable timber supply, efforts should be made to mitigate community impacts.
 - The Region has \$73.9 million in projects and programs in Oregon that could come on line very quickly if additional funds are made available. This would employ almost 2500 in productive full-time work (8,000 with multiplier effect).
 - The following are examples of work, with the aim to fund the Draft or Final Forest Plans:

Road Maintenance - Forest roads have been deteriorating due to limited funding. Additional funding of \$5.7 million would employ 193 (616) persons in this productive activity.

Trail Maintenance - Forest trails are in need of improved maintenance. Funding of \$1.7 million would employ 57 (181) persons.

Reforestation - An additional \$4.3 million would be used on nursery operations, tree improvement activities, and to plant 3,882 acres of trees. This would employ 104 (334) people.

Timber Stand Improvement - Oregon has 58,987 acres of timber stand improvement projects to be completed. This would cost \$10.5 million and would employ 252 (807) people.

Recreation - Recreation O&M and other related activities would employ 344 (1099) people, at a cost of \$7.5 million.

Fish and Wildlife - Draft and Final Forest Plans call for an increase in work in this area. The Region has a current inventory of 25,312 acres of wildlife and fish projects. This would cost \$5.1 million and would employ 204 (654) people.

Road Construction/Reconstruction - This is a labor intensive activity and is badly needed throughout the Region. At a cost of \$11.6 million, 17 miles of road construction and 77 miles of reconstruction would be accomplished. This activity would employ 484 (1547) people.

Trail Construction - There are 114 miles of trails to be constructed at a cost of \$2.5 million. This productive investment would employ 38 (122) people.

BLM
Staff Analysis
of the Job Potential in Reforestation Related
Activities

Direct Employment

In February 1989, BLM issued a Final EIS on their program for "Western-Oregon-Management of Competing Vegetation." It contains estimates of full time employment associated with reforestation activities and timber harvest/processing. Copies of FEIS tables (2-8 and 2-11) that contain those estimates are attached.

Direct employment estimates for major activities are as follows.

	<u>Jobs/1000 acres</u>
Tree planting	4
Brush Control	8
Precommercial thinning	5
Prescribed burning	1
Fertilization	1

II. Unfunded Job Potential

BLM in western Oregon has the following unfunded program needs related to reforestation.

<u>Activity</u>	<u>Acres (000)</u>	<u>Job Potential</u>
Tree planting	14	56
Brush control/protection	26	208
Precommercial thinning	33	165
Prescribed burning	10	10
Fertilization	96 <u>1/</u>	96
Miscellaneous (cone collection)		<u>2</u>
	Total	537

1/ Gross estimate

III. FY 1990 Job Potential

We are not sufficiently staffed to address all the unfunded program needs in 1990. Ceilings on BLM positions needed for project layout contract preparation, administration and lead time requirements indicate we have the capability to create the following additional jobs in FY 1990 if funding was made available.

<u>Activity</u>	<u>Acres (000)</u>	<u>Job Potential</u>
Tree planting	14	56
Brush control/protection	10	80
Precommercial thinning	12	60
Prescribed burning	5	5
Fertilization	22	22
Miscellaneous (cone collection)		2
	Total	225

IV. Post FY 1990 Job Potential

Treatment levels above those described for FY 1990 will be needed in FY91, 92, and 93, to eliminate the backlog acres in plantation maintenance, precommercial thinning and fertilization. Associated jobs are estimated at 104 jobs in each of these years in addition to the increment estimated for FY 1990.

V. Timber Harvest Related Jobs

Direct jobs per million board feet harvested is estimated at 4.8 and total jobs, including indirect jobs is estimated at 16.9 per million board feet.



THE YEW - A RENEWABLE ECONOMIC RESOURCE FOR THE PACIFIC NORTHWEST

Presented to the Native Yew Conservation Committee
January 18, 1991 - Cottage Grove, Oregon
Jerry Rust, Lane County Commissioner

THE PACIFIC YEW

A RENEWABLE ECONOMIC RESOURCE FOR THE PACIFIC NORTHWEST

Presented to the Native Yew Conservation Committee
January 18, 1991 - Cottage Grove, Oregon
Jerry Rust, Lane County Commissioner

The yew tree and its derivatives, most notably taxol, represent an opportunity for sustainable economic development in the Pacific Northwest. This paper will outline an approach to developing a multi-faceted industry niche based on the yew, and will attempt to identify specific actions that could lead to the establishment of several thousand jobs and guarantee a renewable source of the promising anti-cancer treatment utilizing taxol.

Current bark collection activities from the Pacific Yew are based on the assumption that the tree would be utilized on a nonrenewable basis; that is, trees would be cut and stripped of bark. During a five year period taxol would be supplied to the National Cancer Institute. At the end of approximately five years, there would be no further need for the use of native sources. Taxol production would come from nurseries, biotechnology, synthesis, semi-synthesis and/or other means.

The approach suggested in this paper is quite different. This approach suggests conserving and utilizing the existing native yew stands on a sustained yield basis. Jobs would be created in bark and foliage collection; extraction of taxol; research and development; and forest conservation. Further job opportunities exist in developing a wood product line for finished yew products and in stimulating tourism and other forms of economic development.

CHAPTER ONE

FOLIAGE COLLECTION

The best information available suggests that taxol is present in yew needles and branchlets as it is in bark. However, where an average yew tree may only yield five pounds of bark, foliage and branchlets can amount to considerably more. Utilizing recently developed cost-effective methods for extracting the taxol from foliage means greater taxol yields can be established from clipping and cutting live yew trees on a five-year rotation basis. In addition, because the yew sprouts prolifically, a renewable crop rather than a one-time only harvest, is obtained. It is proposed that a series of collection, drying, storage and transportation facilities be established in communities throughout the range of the yew in the Pacific Northwest, primarily west of the Cascades but also in Idaho and the Blue Mountains in eastern Oregon, and that several taxol extraction facilities be established.

As taxol is not water soluble, older units that have recently been clear cut or harvested and areas which contain branches that have been left from recent bark harvesting should also be secured. These old units should be a priority as soon as the snow is gone. I estimate several hundred additional jobs in recovering older materials.

Some rough assumptions about the cost of labor and materials have been made. It is estimated that each laborer could gather approximately 300 lbs. of green materials daily (branchlets finger-size and smaller with foliage attached). This

would translate to approximately 100 lbs. dry weight. This material would be delivered dry and shredded to the extraction facility for no less than \$1/lb. At this rate 100 full-time foliage collectors would be required to supply two shifts.

CHAPTER TWO

EXTRACTION FACILITIES

As the volume of material will be much greater, it would be advantageous to establish extraction facilities in the Pacific Northwest. Industrial space of about 12,000 to 15,000 sq. ft. would be needed for reception, storage, pulverization and extraction in a timely and cost effective manner. An extraction facility which could produce from 20 to 60 kg. of taxol per year would employ 28 people as described below. The facility could handle 100,000 lbs. of foliage and branchlets per month. Running two shifts per day doubles the amount of raw materials utilized as well as the output of taxol. It would also double the employment at this facility.

100,000 lb/mo

I.	Production		
A.	Production labor (10)		
	@ \$8/hr x 10	- 80	
B.	Production Super (2)		
	@ \$12/hr x 2	- 24	
C.	Extraction/purification (4)		
	@ \$12/hr x 4	- 48	
D.	Finish Chemist (1)		
	@ \$30/hr x 1	- 30	
	Chem Tech helper (1)		
	@ \$15/hr x 1	- 15	
II.	Analytical & QC		
A.	Analytical Chemist (1)		
	@ \$25/hr x 1	- 25	
B.	Chem Tech helper		
	@ \$15/hr x 1 (1)	- 15	
C.	GMP Chemist Bureaucrat (1)		
	@ \$20/hr x 1	- 20	
III.	Administrative		
A.	Super Manager (1)		
	Safety, GMP		
	@ \$30/hr x 1	- 30	
B.	Facilities Manager (1)		
	@ \$15/hr x 1	- 15	
	1. Facilities helper (1)		
	@ \$12/hr x 1	- 12	
C.	Janitorial/Cleaning (2)		
	@ \$10/hr x 2	- 20	
D.	Receptionist/Sec. (2)		
	@ \$12/hr x 2	- 24	
Total Employment = 28			
			- \$358/hr
		2000 hrs/yr	- \$716,000/yr
Cost to obtain raw materials			- \$1,200,000
Rent and Utilities			- \$ 60,000
Total Annual Operations			- <u>\$1,976,000</u>

IV. Extraction Apparatus	\$ 25,000
Evaporation Apparatus	\$150,000
Miscellaneous Tanks and Purification Apparatus	\$150,000
Analytical Equipment HPLC/GC	\$ 50,000
Chemical Engineers Setup	\$100,000
Written Operating Procedures	\$100,000
Contingency	<u>\$ 25,000</u>
TOTAL CAPITAL INVESTMENT	<u>\$625,000</u>

This facility would produce between 20 to 60 kg. of Taxol per year. At \$750/g, that is \$15,000,000 gross.

CHAPTER THREE

RESEARCH AND DEVELOPMENT

NOTE: These suggested R&D topics have been provided by Stanley Scher, PhD, Berkeley and Don Minore, USDA, Corvallis.

Except for the work in forest conservation, propagation and ecological areas by the USDA in Portland, regional US Forest Service offices and Oregon State University, precious little research and development is going on in higher education in the Pacific Northwest. The following research should be pursued:

1. Taxus brevifolia should be inventoried on National Forest land in Oregon, Washington and Idaho. The inventory should have two objectives: 1) the estimation of the location and number of yew trees large enough for taxol production during the next two to five years, and 2) estimation of the total yew resource without regard to tree size or short-term needs for taxol production.
2. Yew genotypes that have high concentrations of taxol, cephalomannine and baccatin in bark and foliage should be identified. Purification accounts for over 60 percent of the costs involved in taxol production, and the use of optimal genotypes will reduce those costs while resulting in more taxol production per tree. It will be necessary to separate genetic and environmental heterogeneity if superior genotypes are to be identified, and both field sampling and a common garden approach are needed.
3. Optimal environmental conditions (temperature, moisture, soil nutrients, light) for yew growth and taxol production should be identified. Pacific yew grows in many environments, but those environments have not been studied with taxol production in mind. The occurrence and abundance of yew in nature may or may not indicate environmental optima. Competition from other plants and animals, stand history, and chance dispersion of propagules may have influenced present yew occurrence and abundance.
4. Efficient, economical methods for producing yew planting stock should be developed. Superior genotypes cannot be grown efficiently in optimal environments unless those genotypes can be produced and planted in large numbers. Rooted cuttings seem to be the best means of obtaining the needed planting stock and present rooting methods should be refined.

5. The silvaculture of *taxus brevifolia* should be the best way of managing both natural stands and plantations (e.g., amounts of bark and foliage that can be removed without serious damage to the tree, kind and amount of overstory trees to be left for natural reproduction), site preparation, stand density (to both natural stands and plantations), and fertilization would be studied to determine cutting methods to be left in harvest preservation and be involved.

This would be a three-year program and cost about \$2,000,000. About six researchers and a considerable amount of technician help would be involved.

CONSERVING PACIFIC YEW

1. Defining and managing the resource: Inventory to establish baseline; set initial, tentative standards including rotation period and harvesting frequency; document actual harvesting rate; monitor natural regeneration and regrowth rate; review and analyze results annually; identify problems and formulate alternative solutions.
2. Defining site factors that determine yew distributions: Identify forest habitat types; overstory dependence of yew subspecies or geographic races; riparian dependence (proximity to water and soil moisture-holding capacity); nutrient availability and pH; landscape position (elevation and slope shape).
3. Conserving phenotypic and genetic diversity among yew populations: Define content of taxanes (taxol, baccatins and other structurally related components in foliage, twigs, fruit (aril) and see as a function of geographic races, morphological growth forms (upright tree vs. shrub), forest habitat types and other site factors; correlate taxane content with isozyme and/or DNA restriction enzyme length polymorphisms, seed productivity and foliage regrowth potential.
- 4.* Impact of growth and harvesting (storage) conditions on *in situ* taxane content and stability: Determine loss (or gain) from exposure to direct sunlight, heat, frost etc.; dry vs. humid storage conditions [as compared with lyophilizing *taxus* tissues (freeze-drying *in vacuo*); biodegradative enzyme inhibitors] chemical elicitors; microbial (bacterial, fungal or viral) infection.
5. Alternatives to yew as a source of taxol: Identify rapidly growing microorganisms (bacteria, fungi, etc.) as surrogate hosts for expression of genes for taxane biosynthesis; identify specific enzymes required for taxane biosynthesis and determine the mechanism of their regulation.
- 6.* Alternatives to taxol as a microtubule-stabilizing agent: Identify taxol-specific binding sites on microtubules and their [competitive] inhibitors.

Estimated Personnel and Budget for five-year program:

Job Titles: Forest Resource Analyst; Research Forester; Forest Ecologist; Research Botanist; Research Soil Specialist; Research Wildlife Biologist; Research Geneticist; Research Chemist; Research Molecular Biologist, Research Biochemist and 15 support personnel. Total personnel = 24; total personnel costs (including fringe benefits) @ 30% - \$5,600,000 over five years. Equipment

lies, travel, telephone and other miscellaneous costs - \$500,000 over five years.

Total Direct Costs:	\$6,100,000	
Indirect Costs:	<u>2,440,000</u>	(@ 40%)
Grand Total	\$8,540,000	

tains proprietary information in brackets.

PROSPECTUS

Introduction

There is an urgent need to provide a university-wide locus for coordinating activities directed toward the solution of contemporary problems in cancer research. This prospectus outlines the main features of a center for cancer-related studies at the University of Oregon.

Purpose

The center would provide leadership and direction to meet the challenge of understanding, preventing and controlling cancer. It would identify current needs and seek funding sources to support faculty, student and researchers addressing cancer-related problems. The center would also sponsor conferences, seminars and workshops to explore contemporary research themes related to cancer, produce publications such as conference proceedings, research reports and journal articles.

Developing Regional Resources for Cancer Research - A Model

The National Cancer Institute (NCI) has recently identified a novel anticancer drug obtained from the bark of slow-growing Pacific yew trees on the forests of Oregon and other states in the Pacific northwest. The drug, taxol, has a unique mechanism of action, and is effective in treating ovarian and other cancers that do not respond to conventional therapy.

The University of Oregon faculty and researchers are in a special position to contribute to the development of this regional resource.

CHAPTER FOUR

FOREST WORK

It is recognized that to implement a conservation program for the Pacific yew, there will be expenditures for which no revenue readily exists. However, because of the value of the yew as a wildlife resource, a riparian zone habitat and a source of considerable economic value, the US Forest Service and the Bureau of Land Management should undertake comprehensive efforts to implement yew conservation policies. These efforts should be directed at but not limited to inventory and mapping work, collecting seeds and cuttings, propagation of the species, nursery work and planting seedlings. The number of jobs to be produced in this area will depend on the level of federal investment. It is conceivable that hundreds of seasonal jobs could be created through a federal investment

program in the Pacific Northwest forest aimed at stabilizing yew populations, restoring yew populations.

CHAPTER FIVE

WOOD PRODUCTS

The yew wood is well known for its quality. It is one of the most sought after woods and yet it has been the most under utilized in the Pacific Northwest. It could fill a number of specialties. The following are examples:

1. **Boat building:** Because the yew is impervious to rot and is long-lived and because it is known to develop L-shaped members, it is highly prized as a material for the frame construction of boats. A market exists for pieces of this nature.
2. **Bows:** This is a traditional use. There are several bow makers in the Pacific Northwest. The Queen's Archers and Commonwealth Archers order their bows made from Pacific Northwest yew. These bows would be made only from select, straight-grain, knot-free trees.
3. **Sculpture:** This wood is internationally known and has been traditionally a very high-value and prized medium for sculptors, yet it is rare to see in the art schools and sculpture classes of Pacific Northwest universities this material available, even to the finest sculptors. Literally thousands of pieces of yew wood would be utilized and a market would quickly develop if dry quality material was available. In this regard, stumps and roots, some of which are gouged from the units and during road construction especially, is among the densest of the material. It is highly prized by sculptors because chisels leave a shiny surface and cut very cleanly.
4. **Wood Carving Crafts - Cottage Industry:** A number of various kinds of boxes, souvenirs, buttons, wood frames and the like, miscellaneous wood carvings. In England even tiny pieces of yew are carved into materials which are available in curio gift and tourist shops.
5. **Export Market:** The yew wood is unavailable for the most part in Europe. The oldest antique furniture in Europe which is wearing out is made of yew. A demand arises from time to time in the German and other European markets for yew wood. It should be cut and kiln dried to be available for this high value market. In addition, Japan has bought this wood for the past decade. A species of yew in Japan is almost unavailable. In Japan, yew wood has a spiritual significance and is highly prized.
6. **Posts and Beams:** Farmers and ranchers in the Pacific Northwest long ago recognized the yew as a quality long-lasting fence post. It could also be utilized for other posts, beams and building materials, especially those in contact with soil. Adze-edged yew beams would also be another possibility.

It is obvious that this highly, sought-after, very valuable wood should be developed as an industry much as the myrtlewood industry has developed in southern Oregon and northern California. In the handling, hauling, air and kiln-drying, storage and marketing and in the many crafts, boat building, wood carving, etc., it is estimated that a minimum of 100 full-time jobs could be

created in the northwest. This is a very conservative estimate and could be expanded considerably in the future.

CHAPTER SIX

MYSTIQUE

The yew is legendary. In this regard, tourism, films, media attention, conferences books and art are all contributors to the mystique of the yew and its relation to other native forests. Visitors to this conference today attest to its economic significance.

Finally, the yew should be seen as one of a group of special forest products. The same technology of drying, packaging, marketing and shipping could also be applied in mushrooms, medicinals, exotic greens, salal, cedar boughs, etc. The yew could serve as a stimulus for small enterprise in dozens of forest-dependent communities in the northwest.

We have an opportunity to create a truly sustainable forest product industry based on the yew species. This could create revenue, jobs and wealth for the Pacific Northwest in perpetuity and supply the needed taxol for cancer research.

CONCLUSION

The current strategy of cutting and stripping bark from the yew is wasteful, destructive and follows a nonrenewal path. And it has not met the need for taxol. It creates few jobs, siphoning off the wealth from the Pacific Northwest. On the other hand, this conservation model recovers value-added products from the forest without destroying it. It assumes a renewable resource and assumes the creation of a strong niche in the forest products industry would be developed. It assumes that the materials, to the extent possible and practicable, would be processed in the Pacific Northwest. The emphasis is on the yew as a renewable resource, with value added at every possible step in the process.

In the course of developing this paper, it has been necessary to make some estimates. I have tried to be conservative in these estimates. However it is clear that a renewable source of taxol can be guaranteed by shifting the emphasis from bark collection to foliage. In addition, with good government policy and reasonable capital investment we have an opportunity to create a truly sustainable forest product industry based on this one species which could supply jobs and wealth for the Pacific Northwest in perpetuity.

Acknowledgements: David Carver, Don Minore, Stanley Scher.

November 14, 1990

To: Jim Gilroy

Here is a list of "Existing and Potential Forest Commodities" and a list of "Other Opportunities". These are potentials on the Cottage Grove Ranger District as well as most other ranger districts.

We have qualified the different items with a H, M or L. These refer to our best estimate of local employment opportunities assuming adequate demand and coordination on our part.

H (high) - temporary employment for 10+ people

M (medium) - temporary employment for 5-10 people

L (low) - temporary employment for 1-5 people

Also enclosed is a list of the local folks we work with on established forest commodities. If you have any questions, please call.

JIM WIEMAN

Existing and Potential Forest Commodities

commercial firewood
 mushroom & truffles
 boughs
 ferns for florists
 Yew wood posts
 Yew wood bark
 Christmas trees - commercial
 road surfacing rock
 decorative rock
 cones commercial
 decorative cones
 moss
 cedar shakes
 cedar posts
 pitch
 Princess Pine ground cover
 house logs
 Huckleberry, Salal
 Chittam (Cascara Bark)
 Bear Grass

Other Opportunities

M precommercial thinning
 H tree planting
 H roadside brushing
 M trail maintenance
 L CG road maintenance
 L interpretive tours
 L gold panning
 L outfitter/guide
 L wildlife viewing
 L BB fire lookout
 H slash work - brush
 disposal
 H own firecrew 20 people
 L hut to hut hiking/
 horse trail system
 M brush control
 L recreation bus line



THE WILDERNESS SOCIETY

TESTIMONY OF JEFFREY T. OLSON, DIRECTOR OF THE BOLLE CENTER FOR SUSTAINABLE FORESTS AT THE WILDERNESS SOCIETY BEFORE THE HOUSE AGRICULTURE SUBCOMMITTEE ON FORESTS, FAMILY FARMS AND ENERGY ON ANCIENT FOREST PROTECTION LEGISLATION

May 30, 1991

Mr. Chairman, thank you for the opportunity to testify here today on the critical issue of ancient forest protection. I am Jeffrey T. Olson, a resource economist and director of the Arnold Bolle Center for Sustainable Forests with The Wilderness Society. I appear today on behalf of the nearly 380,000 members of The Wilderness Society. I want to reiterate our support for legislation that would establish long-term, permanent protection for the ancient forests of the Pacific Northwest and help establish sustainable economic development for the region.

The Wilderness Society is concerned about the future of the magnificent forests of the Northwest in relation to the region's economy. We believe that the achievement of our environmental goals, the health of the forest environment, as well as the region's quality of life, and a prosperous economy are intertwined.

Today, the real issue for the future of the Northwest's economy is not timber, but how to manage the ongoing transition to an increasingly diversified economy that is more urban and less rural in nature. For the timber industry it is a question of how to manage the transition to a second-growth timber economy.

This transition is undeniably altering the character and diversity of the region. The Wilderness Society believes that it is necessary to understand this transition in order to understand the growing controversy surrounding the old-growth issue.

While the ecological aspects of ancient forest protection have been exhaustively analyzed and are widely known -- if not universally embraced -- the economic elements of this issue have not. Until now.

Logging of the ancient forests and manufacturing of lumber and wood products constituted the economic backbone of the region for most of this century. In recent years, however, the dominance of the forest products industry has given way to a growing and diversified economy. While all of the major industrial sectors have rebounded from the recession of the early 1980s, the timber industry has proven to be an exception to the prevailing trend of economic growth.

900 SEVENTEENTH STREET, N.W., WASHINGTON, D.C. 20006-2596
(202) 833-2300

Printed on recycled paper

The timber industry, though still important, is in the midst of a transition. Its share of the region's economic activity has been cut in half over the past 20 years. The emergence of a more competitive timber industry in the southern United States and changes in the timber resources in the Pacific Northwest have caused many firms to move to the southeast and others to restructure. A review of capital investment trends in the timber industry offers incontrovertible evidence of this trend.

The transition has not been limited to the timber industry. The entire region has changed, and continues to be, in the midst of an economic and demographic transformation. The Pacific Northwest is now predominately urban; a decade ago urban and rural populations were roughly equal. With the rise of urban centers, dependence on the timber industry for economic growth declined. While Portland, Seattle and other urban centers have thrived during the boom years of the 1980s, small, mostly timber dependent towns have struggled and declined.

One of the earliest voices warning the industry of this transition was none other than George Weyerhaeuser. In a speech to employees in February, 1986, Mr. Weyerhaeuser uttered some hard truths: "[The] industry has changed in fundamental and permanent ways. A set of economic factors both within and beyond the industry has combined...to transform the lumber and log markets." He went on to say: "The harsh reality is that the competitive environment within the forest products industry has changed dramatically and permanently since 1980. Forest products companies both big and small must learn to play by a new set of rules if they are to survive."

In the past two decades, the timber industry in the Pacific Northwest has undergone fundamental restructuring brought on by two related factors: the exhaustion of private old-growth timber and the rising cost of manufacturing compared to other timber producing regions of the country.

In the first case, the industry has liquidated its own stock of old growth and replaced it with managed stands of younger, second-growth timber. This increasingly has placed greater pressure on the last remaining stands of ancient forest found on public lands.

In the second instance, the Pacific Northwest timber industry has become the high-cost producer of lumber and other wood products, including plywood, relative to its competitors in the southern states. According to Forest Service data, the solid wood products industry in states such as Alabama, Mississippi, and North and South Carolina enjoy a cost advantage of more than \$100 per thousand board feet in comparison to the Pacific Northwest. Virtually all of that cost advantage is due to the substantially lower costs of logging in the South where flat terrain and good access make highly mechanized logging feasible.

Since emerging from the recession of 1981-1982, the timber industry in the Pacific Northwest has become leaner and more efficient - production of lumber and plywood is up 10 percent while more than 26,000 timber jobs have disappeared, according to state, federal, and industry experts. Industry retooling has been so successful that in 1979, the average mill in the Pacific Northwest needed 4.5 workers to make each 1 million board feet of lumber; but by 1990, fewer than 3 workers were used to make the same amount

of lumber. This trend demonstrates why cutting more old-growth trees does not, and will not, create more timber jobs.

Industry officials claim that saving the last few fragments of ancient forest will mean economic devastation to the region. Estimates of enormous job losses are regularly touted by industry's leaders and lobbyists. The estimates are gross exaggerations. Credible job impact estimates suggest that as many as 33,600 jobs in the region's forest products industry will disappear over the next 20 years due to improvements in productivity alone. According to my analysis, up to an additional 8,900 forest product industry jobs may be lost because of reduced federal timber supply levels.

At the same time, 160,000 new jobs were created last year in Washington and Oregon.

Timber workers have also been hit hard by the industry's decade-long export binge. Today, the U.S. is both the largest exporter of raw logs and largest importer of finished wood products. That transition is essentially complete on state and private forestlands. Trimming exports of raw logs could save the equivalent number of additional forest industry jobs that might be lost if ancient forests are protected.

The problems facing timber-dependent communities cannot be addressed piecemeal. A comprehensive program will be one in which different economic programs or plans will be inter-related and interdependent. Tax incentives for mill owners, for example, will be ineffective in the absence of substantive programs addressing worker retraining, log exports, forestry research, and other issues.

These communities need real resources brought to bear on a problem that is a function of declining supplies of old growth timber and higher costs of processing smaller diameter, second-growth timber that has come to dominate timber supplies in the Pacific Northwest. It is a problem exacerbated by the maturity of the wood products market, technological change and increased productivity in the industry, and high levels of log exports. The impact of forest protection, federal environmental laws and litigation has not yet been felt.

What is needed now is an explicit transition strategy, calculated to exploit any and every advantage and opportunity to create sustainable economic development, help communities function more efficiently, and establish a permanent link between economic health and environmental protection.

The first place to look for ideas on how to achieve these objectives is the local communities themselves. The Wilderness Society has begun working closely with local political and business leaders to flesh out the strengths, weaknesses, and needs of individual communities. In some communities we are participating in joint workshops to explore economic development opportunities and obstacles. No program will be effective without the full participation and cooperation of the communities themselves.

I urge this committee to consider some of the following ideas in drafting an ant forest protection bill, one that contains economic relief for hard-pressed timber dependent communities:

- **Job retention:** Ways must be found to avoid losing more jobs in communities. Job retention is an opportunity that can provide immediate relief to rural communities. It is important to remember that jobs can be retained only if the industry is producing products that fit the new market that George Weyerhaeuser was talking about. Log exports represent a major drain on timber industry employment and raw materials in the region
- **Log export tariff:** A tax on exports from private lands could make more timber available for domestic mills and generate income for state and federal governments. The success – or failure – of a tariff would hinge on the size of the tax: the higher the tax the greater the potential to boost the amount of timber flowing to U.S. mills and not overseas.
- **Low cost loans and tax incentives:** Timber companies must be encouraged to take risks such as reinvestment in secondary manufacturing capacity or new products. The Pacific Northwest lags other regions of the country in producing secondary wood products as well as the capacity to manufacture new products that are becoming substitutes for more traditional wood products.
- **Land stewardship and New Forestry:** Investment in research and new management practices can generate potentially long-term economic and environmental benefits for the region. There is a tremendous need for restoration of damaged forest ecosystems, construction of recreation facilities, and trail and stream improvements.
- **Improve forest management on private lands:** Private lands should assume an increased share of the demand for timber in the Pacific Northwest. Congress should reinstate the preferential tax rate for long-term capital gains income from timber sales and increase funding for state and private forestry technical assistance programs.
- **Education and technical assistance:** The ability of a timber dependent community to adapt to changing economic circumstances will hinge on the quality of its education system and ability to implement new employment and entrepreneurial programs. Leadership, management, and new business programs are often in short supply in rural areas.
- **Adjusting payment to counties:** To develop and successfully implement education and public works programs counties need a more stable source of federal funding they receive from logging on their lands. Payments to counties should be decoupled from gross timber receipts to eliminate the boom-and-bust cycle of payments. Several options have already been

discussed in Congress for establishing a more equitable and secure method of compensating counties.

A logical question is who is going to pick up the tab for these programs, many of which will require significant funding over both the short and long term. Using receipts from the timber sales program is the wrong place to look. We already are losing money on timber sales on nearly two-thirds of the national forests and we do not need any more negative incentives to sell more trees at a loss.

There are numerous options that deserve further exploration and analysis. Funding will necessarily have to come from a variety, not a single source. Some potential sources include taxes on log exports, a virgin materials tax on building materials and paper products, outdoor recreation equipment, or a royalty on taxol from the Pacific yew. Other sources of funds include federal job training programs, trade assistance, small business, economic development, and even Forest Service research programs. Several state programs also exist that could eventually be tapped to help pay for economic transition programs.

These are the kinds of ideas that must be considered if the region is to achieve both a sustainable economy and ancient forest protection.

Our focus must shift to maximizing the variety of roles that forests should play in the region's future economy. The Wilderness Society's plan acknowledges that timber is part of that future, but only one part. Neither the timber industry nor the Pacific Northwest faces an economic crisis. Rather, the issue facing Congress and the region is how to make an economic transition that would be occurring regardless of the northern spotted owl, in a way that protects both the forest and jobs. But the bottom line is clear: what is at stake here is no less than the fate of a world-class treasure—our last remaining ancient forests with their rare plants and wildlife. Once cut down, they are gone forever; they cannot be replaced.

Endangered Species Act Reauthorization Coalition



May 29, 1991

The Honorable Harold L. Volkmer
Chairman, Subcommittee on Forests,
Family Farms and Energy
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The members of the Endangered Species Act Reauthorization Coalition listed below strongly oppose H.R. 2463, the Old Growth Forest Resources Management and Protection Act of 1991. This legislation would modify the Endangered Species Act (ESA) and remove protection for the threatened northern spotted owl and other old-growth dependent fish and wildlife. It is a direct assault on this nation's environmental laws, including the Act, and we urge you to oppose it.

H.R. 2463, introduced by Representative Huckaby, would amend the ESA by limiting the scope of its Section 7 consultation provisions. For example, once a forest plan is final, the plan and any action taken pursuant to the plan would be shielded from the current requirements of section 7, including reinitiation of consultation.

This bill would short-circuit the ESA's carefully crafted procedures for balancing the needs of endangered species and economic concerns. H.R. 2463 would immediately invoke the Endangered Species Committee (the "God Committee") to consider an exemption from the requirements of the ESA for any conflict between timber sales programs and the needs of any threatened or endangered species, including the northern spotted owl.

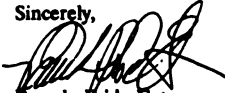
In addition, the bill would severely limit judicial review of agency actions affecting listed species and their habitats and would prohibit injunctive relief for the protection of species. Finally, the bill would declare forest plans sufficient to meet the requirements of the Endangered Species Act, the Migratory Bird Treaty Act, and other environmental laws.

The Pacific Northwest—its ancient forests and its economy—is best served by protecting the full range of values, including habitat for wildlife. H.R. 2463 will serve to insure only that additional species will be at risk. The timber industry's emphasis on

commodity production underscores a basic misunderstanding of the fundamental lesson to be learned from the ancient forests: management that compromises the productivity of forest ecosystems and jeopardizes the existence of forest species cannot maintain long-term economic options for a region.

We staunchly oppose attempts to limit judicial review or amend the environmental laws of the nation to the detriment of threatened and endangered species. We urge you to oppose H.R. 2463 and any future attempts to weaken the protection offered species under the Endangered Species Act.

Sincerely,



Pamela Fride Eaton
Assistant Program Director
National Wildlife Refuge
The Wilderness Society

for

Dr. David Blockstein
Chairman of the Committee on Public
Responsibilities
American Ornithologists' Union

Adele Douglass
Director of the Washington Office
American Humane Association

John Fitzgerald
Counsel for Wildlife Policy
Defenders of Wildlife

Donald J. Barnes
Director
National Anti-Vivisection Society

Randall D. Snodgrass
Director of Wildlife Policy
National Audubon Society

William Pace
Director
Center for Development of International
Law

John Grandy
Vice President for Wildlife and Habitat
Protection
The Humane Society of the United States

Gerald Leape
Legislative Director for Wildlife
Greenpeace, U.S.A.

Roger E. McManus
President
Center for Marine Conservation

Michael Bean
Chairman, Wildlife Program
Environmental Defense Fund

Charles M. Chambers
Executive Director
American Institute of Biological Sciences

**STATISTICAL REVIEW OF 1990 STATUS REVIEW
NORTHERN SPOTTED OWL**

by

Steven L. Sheriff
Wildlife Biostatistician
607 Westridge Road
Columbia, Missouri 65203

Technical Bulletin No. 91-08

Copies Available From:
American Forest Resource Alliance
1250 Connecticut Ave., NW #200
Washington, D.C. 20036
(202)463-2792 Fax: (202)463-2708

PREFACE

A critique of the 1990 Status Review of the northern spotted owl (Anderson et al. 1990) was requested by the American Forest Resource Alliance. The scope of the critique was to include a statistical evaluation of the data and conclusions drawn from their presentation in the 1990 Status Review. Within these constraints, it was agreed that a review of the 1990 Status Review would be undertaken. The following critique was conducted as if the document had been submitted for refereed review. However, the final section of the review, "Views and Recommendations," normally would not be added to a refereed review by me.

The following critique is for the use of the American Forest Resource Alliance, and is a revision of an earlier draft submitted on April 8, 1991. The review is meant as an informative document for their wildlife biologists and forest ecologists to better understand some of the statistical aspects associated with the 1990 Status Review, and as a source of material at press conferences.

Steven L. Sheriff
607 Westridge Drive
Columbia, Missouri 65201

April 23, 1991

STATISTICAL REVIEW

OF

1990 STATUS REVIEW
NORTHERN SPOTTED OWL
ANDERSON ET AL.

1990 Status Review for the northern spotted owl (*Strix occidentalis caurina*) (Anderson et al. 1990) is a compilation of information derived from many sources. Sources include studies conducted by universities, state agencies (in California, Oregon, and Washington), Federal agencies (US Forest Service [FS], Bureau of Land Management [BLM], and US Fish and Wildlife Service [FWS]), the timber products industry, and private consultants. The review team, comprised of David R. Anderson, Jonathan Bart, Thomas C. Edwards, Jr., Cameron B. Krueger, and E. Charles Meslow, searched out original data, where possible, for reanalysis. Besides raw data, they also reviewed reports, letters, comments, and conducted field trips to gather further information for their study. Given the diversity of information sources and the potential for active interpretation, I believe the Status Review is as fair and as detailed as possible. The overall tone of the report would appear, on the surface, to allow latitude for timber production, including harvesting, while at the same time suggesting reasonable alternatives for spotted owl management. However, as with any review where information is drawn from such a diversity of sources, problems do exist in compiling a comprehensive report like the 1990 Status Review.

A critique of the 1990 Status Review (Anderson et al. 1990) will examine the study from a statistical and methodological perspective. As with any statistical review, my remarks and interpretations are also open to criticism due to assumptions that I made concerning study designs, data collection, and statistical procedures that were used in the studies incorporated into the 1990 Status Review. The original data used by Anderson et al. were collected by a variety of biologists using different methods and study designs. Unlike the review team, I did not have direct access to field biologists and their data to verify my assumptions. Likewise, other readers of the 1990 Status Review might have complete access to the entire information base, including original data and field notes, for corroborating their decisions concerning the spotted owl. They might make a different set of assumptions than I did. I indicate areas in the 1990 Status Report that potentially could be misinterpreted and are problems concerning analytical and interpretative errors might occur.

This review is in 3 parts. The first addresses the habitat loss and habitat relationships portions of the 1990 Status Review. The second examines the statistical analysis conducted for the report. The final part consists of my conclusions and recommendations concerning the spotted owl-timber harvesting issue as I formulated them during the process of conducting this review. I will not comment on the portion of the 1990 Status Review concerning the Management of Forest Lands in the Pacific Northwest (Anderson et al. 1990:46-58). This section requires someone far more knowledgeable about timber production and spotted owl management in the Pacific Northwest than I am.

Statistical Review of Anderson et al.

HABITAT LOSS AND HABITAT RELATIONSHIPS

I. Problems with Figure 1.1 from the 1990 Status Review.

Figure 1.1 (Page 2 of 1990 Status Review) shows the authors perceived "decline in acreage of unprotected suitable northern spotted owl habitat on FS lands also suitable for timber production" (Anderson et al. 1990:2). This figure and accompanying descriptions and conclusions (Anderson et al. 1990:1) are quite dramatic. However, the manner in which this figure was constructed, as outlined in Appendix F (Anderson et al. 1990:95), causes some concern.

First, the authors assume that "...70% of FS land contained suitable owl habitats in 1930" (Anderson et al. 1990:95). This assumption is based on a report by Harmon et al. from 1990 (citation not included in the Literature Cited section of the 1990 Status Review), that seems to indicate that "...70% of the forests were old-growth..." (Anderson et al. 1990:95). However, Anderson et al. (1990:28) indicate that suitable habitat could also be comprised of older forest classes (>80 years) including old-growth forests. Forests greater than 80 years of age, but not classified as old-growth forests, do not seem to be included in their estimate for 1930. Therefore, the base number of acres for suitable habitat used to construct the remainder of Figure 1.1 could be substantially higher.

Second, the decline in the acreage of unprotected suitable habitat is based on "...the average annual volume of timber harvested during each decade from the 1950s...to present" (Anderson et al. 1990:95). Anderson et al. (1990:95) also indicate that "...the amount harvested per decade has been nearly constant since (1959).". Because they base the decline of suitable habitat on the volume of timber harvested, they would need to indicate adjustments made to account for the harvest of younger timber that is not included in the suitable habitat definition. Failure to make these adjustments would lead to an overestimate in the rate of decline in suitable habitat. The overestimate would lead to an underestimate of the number of acres of suitable habitat left at present.

Finally, Anderson et al. do not indicate if they have included in Figure 1.1 an estimate for those forests that reached maturity during the 60 years represented. Many of the forests not in the suitable habitat class in 1930 should have entered the suitable class during the last 60 years. These maturing forests would increase the number of acres of suitable habitat. However, if these areas were harvested before they entered the minimum age class considered suitable habitat, then the volumes of timber harvested from those areas should have been subtracted from the annual harvest values. If neither the volumes of timber were subtracted nor the new maturing forests included, or worse, neither was done, then the acreage of suitable habitat at present would be underestimated.

Statistical Review of Anderson et al.

If any or all of the above problems were not corrected before Figure 1.1 was constructed, then the impact of this figure might be misleading. Also, the conclusions drawn by Anderson et al. (1990:1) may be more dramatic than need be. Instead of the "decision space" being "small" and "decreasing rapidly", the "decision space" might be somewhat larger and not decreasing as rapidly as indicated (Anderson et al. 1990:1-2).

II. Use of descriptive data about nest site characteristics to make statements about spotted owl selectivity of nesting habitat.

The authors of the status review cite 47 nest trees that were reported by Forsman et al. (1984). According to Forsman et al. (1984:12), "nest sites were located during the day by (1) howling in on radio-tagged individuals, (2) observing adults during the period of nest site selection, (3) imitating spotted owl calls in suspected nest areas until females left their nests to confront the suspected intruder, or (4) tethering live mice on the ground in view of roosting adults and then watching as the owls captured the mice and carried them to the nest." These methods of nest searching are controlled by the researchers as to where they are looking for nests. The researchers select habitat types in which they would expect to find owls or in areas where owls are easy to capture. This technique of locating nests would be good for determining reproductive rates of individuals within habitats where nests were found, but those data would be biased in favor of the habitats selected by the researchers if used in determining nest site selectivity for spotted owls. Given that Gutierrez et al. (1984:61) also cited the methods of Forsman et al. (1984) as the technique that they used to find nests, I would suspect that others cited by Anderson et al. (1990:5) used similar approaches.

The proper method would be to search habitat types in such a manner so that a density estimate for nests in each habitat type could be determined. This process would require that habitat types be sampled, not individual spotted owls. In other words, land units would need to be classified into appropriate habitat strata and the number of nests within each stratum determined. This procedure is much different in that owls are not the sampling unit.

Someone might argue that radio-tagged owls would be a good sampling unit for determining habitat selection by owls for nests. This procedure might be appropriate if a representative sample of the population of owls was radio-tagged, and radio-tagging did not affect the behavior of the selected owls. Then, data collected from these owls could be used to infer habitat types used by the owl population during nesting. This type of study would not indicate habitats that owls might select if they were presented a different set of habitats. By offering a mixed variety of habitat types in a controlled experiment, spotted owls may select a different type of habitat to nest in than would be expected from observations of radio-tagged owls released back into the home areas where they have previous experience. Previous experiences most likely do play a role in habitat selection.

Statistical Review of Anderson et al.

III. Lack of independence with roost site characteristics

The same problems that were identified for the nest site characteristics (see comment II, above) hold for roost sites. Anderson et al. (1990:6) reference data from Forsman et al. (1984:29) concerning the proportion of roosts that were found in old-growth forests. Forsman et al. (1984:29) indicate that over 1,650 owl roosts were located on their study areas. However, these roosts locations were identified using a maximum of 14 owls (which included at least 2 pairs) that were radio-tagged. This gives an average of about 118 roosts located from each radio-tagged animal or 139 readings per pair. As White and Garrott (1990:190) point out, the pooling of readings from individuals or pairs is usually invalid for radio-tagging information "...because of the question of independence of observations within animals as opposed to among animals." If data are pooled the among-animal variation is lost. White and Garrott (1990:129-130) recommend that this pooling not be done, unless few observations are made on many animals.

Let us assume that we have a population of people that are found in buildings proportional to their availability, except for bars and churches. About 80% of the population attended church each Sunday for 1.25 hours per individual and never went to bars, and the other 20% spent 5 hours per individual each week in local bars but never attended church. (Total amount of time spent by the population in churches and bars would be equal [i.e. 80×1.25 equals 20×5].) Now, let's select a sample of 100 individuals from this population at random, so that the sample is representative of the population. We would expect on the average that 80 of these individuals would be from the group that goes to church and 20 would be from the bar group. If we take thousands of readings on each individual to determine where the individual was at random times throughout the course of several years, we would find from the sample that there would be an equal number of readings for churches and bars. These pooled data would indicate that the use of bars and churches was selected equally. However, based on individuals, 80 people preferred churches more than bars, while the other 20 preferred bars over churches. Also, if the sample of the population was obtained at the doors of churches as the congregations were leaving, the resulting data would indicate an extremely low number of reading for bars (not a representative sample from the population).

Therefore, any data that was obtained from individual animals by taking repeated measurements on the marked animals should be analyzed by the individual in reference to the individual's preferences. Then, the resulting individual summaries could be examined to determine population preferences if the individuals comprise a representative sample of the population. However, given the data reported in Anderson et al. (1990:7), most of their citations would give an overestimate of the most selected forest type. However, if this bias were corrected, "old-growth" habitat would still rank high in terms of preference. Information given in Table 8 of Forsman et al. (1984:30) was gathered with respect to weather. This

Statistical Review of Anderson et al.

table shows that the highest usage of roost trees that were >80 years old was 82%. These data in my opinion are probably more representative than data presented in Anderson et al. (1990), because the randomness of weather was used to determine where birds were roosting.

IV. Problems associated with home range studies.

White and Garrott (1990) outline major problems with interpretation of home range and habitat analysis studies using radio-tagged animals. The first problem is with the definition of home range. Burt (1943:351), as cited by White and Garrott (1990:145), states that home range is defined as "that area traversed by the individual in its normal activities of food gathering, mating and caring for young." As White and Garrott (1990:145) indicate it is very difficult to define the area where an animal normally moves.

Second, home range estimators require many subjective decisions that must be made to construct the estimates (White and Garrott 1990:179). White and Garrott (1990:179) further indicate that "estimates lack objective criteria in their construction, and thus provide little biological insight. Further, the statistical properties of most of the commonly used estimators are unknown..." For example, the minimum convex polygon method cited by Anderson et al. (1990:8), and used by Thomas et al. (Anderson et al. 1990:8), is expected to produce larger estimates of the polygon area as sample sizes increase. Therefore, if one desires to indicate that a species has a large home range, the researcher only needs to collect a large number of sample locations over a long period of time to get a large estimate using the minimum convex polygon method (White and Garrott 1990; Boulanger and White 1990). However, if the researcher desires to have a smaller home range estimate using the same data, one would use an ellipse estimator developed by Koepl et al. (1975) (Boulanger and White 1990). So, the choice of estimators can determine how large a home range estimate might be.

Third, the use versus availability studies cited by Anderson et al. (1990:8-11) also have major obstacles even without the home range estimation problem. First, defining what the animal perceives as being truly available to it and what the biologist determines is available to the animal are probably 2 different things (White and Garrott 1990:184-185). Second, the availability must be measured without error for these statistical techniques cited by Anderson et al. (1990:8). This can be done, but few studies ever address if this was accomplished and how it was done. Finally, observations must be independent for the statistical analysis mentioned (Thomas and Taylor 1990). Again, few authors doing habitat use and availability studies ever test their data to determine if their information was even statistically independent. (Thomas and Taylor [1990] give an excellent review of use versus availability estimators, and guidelines for the use of these estimators.)

Statistical Review of Anderson et al.

Finally, Table 2.2 of Anderson et al. (1990:10) shows 9 studies where available habitat classes were defined within individual home ranges and were statistically analyzed to examine the habitat used by each individual (Anderson et al. 1990:9). There are 2 methods for analyzing these data -- (1) the proportion of each habitat type that is in the animal's home range is used as an estimate of use (proportion method), and (2) availability is determined by the proportion of each habitat in the home range and individual locations of the animal within these habitat types determine use (location method). I am not sure which method was used by Anderson et al. (1990), but both techniques have problems. First, the proportion method requires a perfect home range estimator, so that errors are not injected into the analysis; and the method assumes that the area within the home range is uniformly used by the animal (White and Garrott 1990). As pointed out above, there is no known perfect home range estimator (White and Garrott 1990; Boulanger and White 1990), and animals normally do not use an area uniformly. Finally, the location method also has its problems. A home range for an animal represents some prior selection by the animal. This prior selection will bias the results (White and Garrott 1990:201).

Given these problems, all the information in section 2.3 concerning home range and habitat analysis is suspect for statistical analysis errors and misinterpretation. The reasonable conclusion that can be drawn from this section is that spotted owl use old-growth forests as well as other types, such as mature, young, pole/sapling, mixed age, riparian, and other forests. However, we cannot go much beyond this simple statement.

V. Picky Points.

Figure 1 cited in middle of page 12 of Anderson et al. (1990) probably should be Figure 2.2. Also, the citation for Ripple et al. (1989) on page 19 of Anderson et al. (1990) is not in the Literature Cited section of the report; however, this may be only due to the wrong year being cited for Ripple et al. on page 19.

An exclusion of the USDA (1989) citation for Table 2.4 (Anderson et al. 1990:15), Table 2.8 (Anderson et al. 1990:27) and Table 2.9 (Anderson et al. 1990:28) from the Literature Cited section may be of bigger concern (See comment IX, below). Anderson et al. (1990:71) show 2 citations for USDA in 1989. These are marked "USDA 1989a" and "USDA 1989b." Neither of these citations would appear by their titles to contain detailed population information for the FS spotted owl monitoring surveys. These citations need to be checked to determine if these data are contained in one of the reports.

An additional small problem exists for Table 2.4 (Anderson et al. 1990:15). A total of 254 sites were included in the table, but the text describing the methods (Anderson et al. 1990:15, first paragraph) indicates that there were 255 sites examined. Was 1 site dropped from the construction of Table 2.4?

Statistical Review of Anderson et al.

VI. Landscape Studies section problems.

Nearly all the studies cited in the Landscape Studies section of Anderson et al. (1990:11-22) have not been published in refereed journals and were unavailable for detailed analysis for this critique. However, given the amount of detail presented in Anderson et al. (1990), several points can be made.

It appears that all the studies were done using land as the sampling unit. This would be the correct sampling basis for studies addressing the objective that Anderson et al. (1990:11) described for the "landscape" section. If any of these studies used spotted owls or radio-tagged owls as their basis for conducting their landscape analysis, then these data should be excluded, and any interpretation or decision-making based on these data would be suspect.

The results presented in Figure 2.1, Tables 2.4, 2.5, and 2.7 of Anderson et al. (1990) make me wonder why they did not use more rigorous analysis procedures, such as regression analyses. Arbitrary categories for grouping data are defined. It would be logical to expect that data near the boundaries of adjacent categories would be more similar than data at opposite ends of the same category. In other words, we would expect a gradient, or even change, in parameter values as we moved from 0% older forest or suitable habitat to the highest percentages of these components. Nonlinear or linear (using appropriate transformations) regression would seem to be ideal for analyzing these data. By using regression, variation about individual values of the independent variables could be examined, and different alternatives could be openly evaluated using this information. (Also, see comment XII, below, concerning reporting of variation about estimates.)

VII. Contradictory statements concerning amount of suitable habitat on private land.

Anderson et al. (1990:22) indicate that there is "virtually no private land in Washington or Oregon (containing) suitable habitat for the northern spotted owl...." However, later they indicate that "the actual amount of suitable owl habitat is unknown" (Page 51) for private lands in all 3 States. Which statement is correct? Has the amount of suitable habitat on private land been determined? (Seems like a survey should have been made or should be made.)

VIII. Summary paragraph concerning amount and distribution of suitable habitat on Congressionally protected land (Section 2.61 - Page 24) is not supported by data present in the section.

After the first sentence in the summary paragraph of the section concerning the amount and distribution of suitable habitat on protected lands (last paragraph of Section 2.61 in Anderson et al. [1990:24]), the remaining conclusions are not supported by the information provided in the

Statistical Review of Anderson et al.

section. For example, Anderson et al. (1990:24) indicate that "... protected habitat is fragmented and separated by long gaps." Quantitative measures are needed to define "fragmented" and "long gaps". If the map (Figure 2.5 of Anderson et al. [1990:26]) is inspected closely many of the "fragmented" habitat areas appear to be near each other (well within 10 miles).

No documentation is given to support the statement concerning the size of patches and the number of owls that each patch could support or is supporting (third sentence of last paragraph for Section 2.61 of Anderson et al. [1990:24]). Information concerning the range of patch sizes and their mean acres should have been presented. It is not until Section 4.23 (Anderson et al. 1990:56) and Section 4.24 (Anderson et al. 1990:57) that the suitable habitat within wilderness areas and National Parks is estimated at 1,591,007 acres. Also, the density of owls within these habitat areas would be needed to support the statement. Again, not until Section 4.25 (Anderson et al. 1990:57) is an estimate given for the number of spotted owls on National Park lands (no estimate is given for wilderness areas.) The number of spotted owls on National Park habitats is a minimum of 28 with an estimate of 85 (Anderson et al. 1990:57). This would give a minimum density of 0.03 owls per mi^2 (0.95 owls per mi^2 for the estimated value.) These density estimates are within the range of values for those areas having 41-60% older forest in the Olympic Peninsula and Washington Cascades (Anderson et al. 1990:25). Given that 84.1% of the National Park land area is within these 2 zones, the density values appear to be similar to habitats in unprotected forests.

The last sentence of Section 2.61 (Anderson et al. 1990:24) is not supportable by the analysis presented in the Habitat Relationships portion of Anderson et al. (1990:3-29). To support this statement, risk analysis using population parameter estimates would have to be performed under a set of assumptions concerning the likelihood of catastrophic or other events occurring that might decimate the local populations (Marcot and Holthausen 1987:340-342). Anderson et al. (1990) do not report such analyses.

IX. The construction of Table 2.8 is confusing and appears to contain inappropriate comparisons.

As commented above (see comment V), data that appear in Table 2.8 (Anderson et al. 1990:27) apparently came from a report, "(USDA 1989)", that is not listed in the Literature Cited section of Anderson et al. (1990). Therefore, there is no readily available way to check the results of this table, except by making comparisons using information that Anderson et al. (1990:24-25) referenced for the construction of Table 2.8.

The FS monitoring data in Section 2.4 (Anderson et al. 1990:15) is cited by Anderson et al. (1990:24) as the source of information for Table 2.8. Table 2.4 (Anderson et al. 1990:15) contains a summary of spotted owl population and productivity parameters from the original FS monitoring

Statistical Review of Anderson et al.

data. When Table 2.4 is compared to Table 2.8 (using only the "good habitat" column from Table 2.8, and >40% suitable habitat [which most likely is the amount of older forest, given the title in Table 2.4 and the explanation listed in the text citing Table 2.4] information from Table 2.4), population parameter values are larger and fewer sites are included in Table 2.8 than in Table 2.4. Apparently, the information in Table 2.4 also contains the data from the Wilderness Areas. This would explain the difference between 97 sites shown in Table 2.4 and the 51 sites used in Table 2.8. (The assumption that I am making is that the FS monitoring survey was conducted on "randomly selected sites" [Anderson et al. 1990:27] throughout the FS ownership, including Wilderness Areas.)

I made a further assumption that in constructing the values for the "protected habitat category" in Wilderness Areas (Anderson et al. 1990:24) for Table 2.8, only those Wilderness Area sites with >20% older forest (or >20% suitable habitat) from Table 2.4 were used. Practically and logically, this assumption is likely false, because it would require that all the sites in the 21-40% suitable habitat class for Table 2.4 would be from Wilderness Areas and that 2 other Wilderness Area sites come from the 0-20% category of Table 2.4. However, this assumption only requires that the Wilderness Area sites contained in the 2 categories >40% suitable habitat in Table 2.4 have parameter values that were well below the means reported in Table 2.4 for these 2 categories. Many of the Wilderness Area values would need to be even below the 21-40% suitable habitat mean value in Table 2.4 in order for the parameter estimates shown for the Wilderness category in Table 2.8 to be correct.

Alternatively, if I assumed that Wilderness Area sites from all suitable habitat classes in Table 2.4 were used in constructing the Wilderness category in Table 2.8, then 2 other assumptions would most likely need to be made in order that the reported mean values in Table 2.8 would be correct. First, as described above, the Wilderness Area sites would have to have many of their values below the means for the 2 categories that are >40% suitable habitat in Table 2.4. This would have to be true so that the mean values for good habitat in Table 2.8 could be greater than the mean values for these 2 categories in Table 2.4. The other assumption is that many of the Wilderness Area sites in the 0-20% suitable habitat category of Table 2.4 would need to have parameter values that were greater than the mean values for this category so that the mean values for Wilderness would be correct in Table 2.8. These means are nearly equivalent to the means reported for 21-40% suitable habitat in Table 2.4.

Hopefully, the above explanation shows the confusion that is created by the number of assumptions that must be made to determine the meaning of "Wilderness" and "Good Habitat" in Table 2.8 (Anderson et al. 1990:27). This confusion can lead to misinterpretation of the table.

It is also difficult to determine the statistical and biological comparisons that the authors are attempting to make in Table 2.8 (Anderson et al. 1990:27). Basically, given the number of different assumptions

Statistical Review of Anderson et al.

that I had to make concerning the different ways in which Table 2.8 might have been constructed, my view is that "apples-and-oranges" are being compared. By having a definition for the protected habitat class ("Wilderness") and a separate, and unequal, definition for the unprotected habitat class ("Good Habitat") in Table 2.8, the biological interpretation of the statistical comparisons are difficult and incomplete. Anderson et al. (1990:25) indicate that the "Wilderness" estimates are lower than the "Good Habitat" estimates. This would be expected given the differences in the definitions. Anderson et al. (1990:23-24) in Section 2.61 indicate that not all lands within Wilderness Areas are suitable habitat. In fact, their definition of suitable habitat within Wilderness Areas includes only those lands with >20% older forest in an 8 mi² area. Therefore, an estimate that represents nearly a whole population should not be expected to be equal to an estimate from the best part of a nearly identical population.

A better statistical comparison for Table 2.8 would have been to test between suitable habitat sites in Wilderness Areas (using the Anderson et al. [1990:24] definition, above) and suitable habitat sites from the unprotected FS lands with >20% suitable habitat in an 8 mi² area. Because identical definitions would be used for both categories, these comparisons would have had direct statistical and biological interpretations, and would not have been subjected to as many assumptions concerning the parameter estimates. Also, we would not expect, a priori, that the parameters would be unequal. If tests were of sufficient power (Steel and Torrie 1980:113-119) to have biological meaning and inequalities were indicated, or even not indicated, then interpretation concerning the quality of suitable habitat in Wilderness Areas and unprotected FS lands could have been made in a straightforward manner.

X. Table 2.9 is confusing and could be misinterpreted.

All the problems discussed above (see comment IX, above) for Table 2.8 (Anderson et al. 1990:27) also are appropriate for Table 2.9 of Anderson et al. (1990:28). Again, there were differences in definitions between sites included in the "Wilderness" class and those included in the "Good Habitat" class for the SOHAs. Similar solutions as listed above for Table 2.8 (see last 2 paragraphs of comment IX, above) would be recommended for making comparisons in Table 2.9.

In Table 2.9 of Anderson et al. (1990:27) for those categories where no significant differences were indicated, analysis of the power of the test, or the probability of failing to reject the equality of the parameter estimates when they are not equal (Type II error), should have been done. (This holds for any statistical comparisons where significant differences are not found [Forbes 1990; Peterman 1990]). The tests may have been of insufficient power that statistical differences were not found even though there were biological significant differences. Also, for those tests where significant differences were found, it would be of interest to determine if the tests were so powerful that statistical differences were

Statistical Review of Anderson et al.

found but these differences were not significant biologically. Because variances, standard errors, or standard deviations are not shown for the parameter values in Table 2.9 or most of the tables present in the Habitat Relationships portion of Anderson et al. (1990:3-28), there is no way to conduct power analyses for these comparisons.

- XI. Summary statement for Section 2.6 is not supportable by evidence presented in the report.

In the summary statement for Section 2.6 (Anderson et al. 1990:28), the authors concluded that viable populations of spotted owls could probably not be supported in Wilderness Areas and National Parks without the habitat outside of these areas. This conclusion is not supported by analysis or evidence presented in Section 2.6; however, this does not mean that the conclusion is incorrect.

Anderson et al. (1990) fail to show that spotted owls are at risk of extinction on Wilderness Areas and National Parks. They have not conducted risk analyses using population parameters for owls in Wilderness Areas and National Parks and the likelihood of different catastrophic events that could occur to cause the spotted owls to become extinct from these areas. They further fail even to show present population trends for spotted owls in Wilderness Areas and National Parks, and the amount of immigration into these areas from surrounding unprotected habitats. Even without immigration and emigration, populations could possibly be stable or even increasing in Wilderness Areas and National Parks, while decreasing in "good habitat" on unprotected FS lands, given the data presented in Section 2.6 (Anderson et al. 1990:23-28). It would be these analyses and data that Anderson et al. would need to show in support of their conclusion.

- XII. Problems with Habitat Relationships portion of report that have not been mentioned earlier.

Four basic problems are identifiable within the Habitat Relationships portion of Anderson et al. (1990:3-29). These problems are related to the statistical and biological interpretations that can be made concerning the habitat information. These problems are: (1) failure to define suitable habitat for spotted owls in specific quantifiable terms, (2) failure to report measures of variation for estimates of means throughout this section, (3) the effects of radio-tagging spotted owls are not addressed, and (4) habitat is only examined in terms of those habitats selected by the owls, with inferences that selected habitats are critical to the survival of spotted owls.

Phrases that include the words "suitable" and "habitat" are used no fewer than 30 times in the first 29 pages of Anderson et al. (1990). However, there is no explicit and implicit definition given to the meaning of what constitutes "suitable habitat." The term is used as if everyone knows what biotic and abiotic components of the environment are needed to

Statistical Review of Anderson et al.

support northern spotted owl populations, however, inconsistencies appear. For example, different sizes of areas are used (e.g. - 13.9 mi² [Page 14], 1000-acre circles [Page 15], and >8 mi² [Page 15]) in Section 2.4 (Anderson et al. 1990:12-19) to examine relationships of spotted owl population parameters to percent of older forests within an area. From this examination of relationships of populations and forest classes at different scales, >20% older forest within an 8 mi² area is chosen to construct a map of suitable habitat within Wilderness Areas and National Parks (Anderson et al. 1990:24 and 26). (Coincidentally, an area of 8 mi² was the minimum size of area used by Bart and Forsman [1990].) Anderson et al. (1990:24) also indicate that "northern spotted owls often do not occur in high elevation forest"; however, they do not specify a specific elevation. Forsman et al. (1984:15) gives elevation limits by geographic regions of Oregon. They describe the upper elevation range for spotted owls in Oregon as the separation of "...mid-elevation forests of Douglas-fir, western hemlock, white fir, grand fir, ponderosa pine, or Shasta red fir from subalpine forests of Pacific silver fir, noble fir, subalpine fir, lodgepole pine, whitebark pine, or mountain hemlock" (Forsman et al. 1984:15-16). Anderson et al. (1990) never examine this upper elevation limit to determine if it holds throughout the range of the northern spotted owl.

Anderson et al. (1990:3-29) do not report measures of dispersion (e.g. - variances, standard deviations, standard errors, and ranges) for most of the point estimates reported from sampled information. They show standard errors in Figures 2.3 (Page 19) and 2.4 (Page 25). Without measures of dispersion, it is impossible to determine how precise or repeatable estimators are (Burnham et al. 1987:12), or to perform power analysis for the tests (Steel and Torrie 1980:113-119). Furthermore, for those estimates that were compared statistically in Tables 2.1 (Page 7), 2.2 (Page 10), 2.4 (Page 15), 2.6 (Page 18), 2.8 (Page 27) and 2.9 (Page 29) by Anderson et al. (1990), no indication was given to the statistical tests that were performed. I can only guess that Chi-square analyses were used for Tables 2.1 and 2.2, and t-tests were performed for the 4 remaining tables. However, because these are only guesses, I am unable to comment on the validity of these tests and significant levels reported.

Much of the data and summaries presented in Section 2.2 and 2.3 (Anderson et al. 1990:4-11) were collected from spotted owls that had been captured and equipped with radio transmitters. One of the "...underlying assumption(s) of most radio-tracking studies is that the instrumented animals are moving through the environment, responding to stimuli, and behaving in a manner similar to noninstrumented animals" (White and Garrott 1990:27). However, White and Garrott (1990:27) further indicate that:

"it is reasonable...to expect that the researcher impacts the animals through the capture, handling, and attachment of the instrument package (Fuller 1987). Impacts may range from subtle behavioral changes which are manifested only

Statistical Review of Anderson et al.

temporarily to long-term changes that affect an animal's survival and reproduction."

A review of literature concerned with the instrumentation of avian species showed that "...the transmitter weight-body weight ratio of flying animals is the factor that concerns most investigators" (White and Garrott 1990:38). Similarly, Anderson et al. (1990:78) indicated that "because radio transmitters may affect survival, no birds with transmitters were used in (their survival) analyses." Given these concerns, the information in Section 2.2 and 2.3 then becomes highly suspect (even more than indicated in comment IV, above) due to the unknown, or not reported, impacts of radio transmitters on movements, behaviors and responses of northern spotted owls. Therefore, many of the conclusions about habitat selection based on spotted owls with radio transmitters, home range size, and the juvenile dispersal information (Anderson et al. 1990:24, Gutierrez et al. 1985, Forman et al. 1984:38-40) are only relevant to the instrumented birds. Results derived from instrumented birds are not extendable to other spotted owls until experiments of sufficient size are performed showing that radio transmitters do not have a significant effect on the movements, behavior, survival, and responses of owls.

The Habitat Relationships portion of Anderson et al. (1990:3-29) examines habitat selection of spotted owls. Habitat selection only shows the preferences of owls, and does not indicate habitat requirements critical to spotted owl survival and reproduction. White and Garrott (1990:198) summarized the problems concerning use of habitat selection and preference data to determine habitat requirements that benefit the survival and reproduction of a species. White and Garrott (1990:198) stated that:

"We believe that much of the selection shown by animals is neutral relative to their fitness, because individual animals often show differences in their preferences. Probably, only strong preferences that are consistent across animals actually benefit fitness. Undoubtedly, few if any habitat preferences are negative to fitness in the long term,...because these behaviors would have been selected against and eliminated from the population. Short-term preferences for habitats with negative value may be caused by predation pressure or intraspecific behavioral interactions. Thus, we do not believe that preference for habitat type provides much evidence that the habitat type is necessary to the animal's survival and reproduction. The only approach to determining the criticalness of a habitat type is to keep the animal out of it and then monitor its survival and reproduction. Thus, tests of criticalness require perturbation studies, with large sample sizes, because population parameters are being monitored."

Perturbation studies to determine the critical habitat components of spotted owls have not been done; only habitat preference studies have been

Statistical Review of Anderson et al.

conducted. These studies indicate that owls prefer older forest habitat. This strong preference might be argued that it shows survival and reproduction of spotted owls are actually benefited. However, these studies of preference cannot determine cause-and-effect relationships; therefore, they cannot show that older forest habitats are critical to owl survival and reproduction. By conducting perturbation studies, this relationship could be examined to determine if older forests are critical to spotted owls. Once it is shown that older forests are critical, experiments of this type would need to be conducted to determine how much older forest habitat is needed to maintain a viable spotted owl population.

One might counter these arguments with the notion that the entire range of the northern spotted owl is an experimental treatment of sample size 1 and only 1 treatment -- clear-cutting or even-aged management -- and results indicate that the treatment has only negative benefits to the fitness of spotted owls. This assumes that any active management, or timber harvesting, would be a detriment to the survival of spotted owls, and that spotted owl populations have a rate of decline in proportion to the rate of timber harvest. If these assertions were correct, population trends for the spotted owls would indicate a negative trend for the last 150 years. However, Anderson et al. (1990:30) indicate that no information about historical population size exists for northern spotted owls and little information is available on its historical distribution. With this lack of data this on-going "natural experiment" cannot be used as a test of these arguments concerning the loss of supposedly "critical" habitat and population trend.

XIII. Problems with the conclusions of the Habitat Relationships portion of Anderson et al. (1990:3-29).

Each of the 11 conclusions as described in Section 2.7 (Anderson et al. 1990:28-29) is critiqued for statistical supportability given the information in the 1990 Status Review and gleaned from supporting literature that is readily available.

1. Given the limited information in the Habitat Relationships portion of the 1990 Status Review concerning uneven-aged management (Anderson et al. 1990:3-4, 19-22), the conclusion concerning the amount and structural characteristics cannot be refuted, and appears to be factual. However, it has not been shown that the effective use of this management tool is negated because of the small percent (<5%) of the public lands under selective harvest. What has been shown in the Habitat Relationships portion is certain population parameters concerning reproduction and density (in terms of per mi²) are similar between selective harvested areas and those clear-cut areas with >40% older forest (Anderson et al. 1990:20). In terms of the total population of northern spotted owls, Anderson et al. (1990) never indicate what proportion of the owl population occurs in selective harvest areas. This comparison might indicate that

Statistical Review of Anderson et al.

these areas support a proportion of the owl population different from that expected by the occurrence of selective harvest areas.

2. This conclusion indicates that "...spotted owls require large tracts of land containing significant acreage of old-growth and mature forest to satisfy their life history requirements..." There are 2 points of contention that I have with this conclusion. First, "large tracts" is ambiguous and left open to interpretation. For example, "large" may be 1000 acres (Anderson et al. 1990:15) or 13.9 mi² (Anderson et al. 1990:14). Second, all the evidence that is shown by Anderson et al. (1990:3-28) examines the habitat requirements of northern spotted owls by citing habitat preference studies and population survey data correlated with habitats on the surveyed areas. Earlier comments that I made about habitat preference studies (see comments IV and XII, above) show the inadequacies of this type of research in determining critical habitat (habitat requirements). Correlational studies are reflective of habitat preferences, and do not address critical habitat requirements (White and Garrott 1990:15-16).
3. The nesting studies cited by Anderson et al. (1990:5) have the problem that the researchers selected the habitat sites to be searched for nests (see comment II, above). This approach can greatly bias the results. Therefore, this conclusion should have been restricted to the bounds of the studies cited, and should not include all spotted owl nests.
4. The evidence cited by Anderson et al. (1990:6-11) would support the statement that spotted owls select "older forests" within their home range. However, problems of defining the home range of a spotted owl (see comment IV, above) and determining why owls prefer this habitat type still exist. Do spotted owls select for this habitat because it is critical (see comment XII, above), or because this is what they like and have learned to choose?

In the above paragraph, I placed quotation marks around older forest even though in conclusion marked "4" the term used by Anderson et al. (1990:28) was "old-growth forest". I wonder why this conclusion is so restrictive when Anderson et al. (1990:11) indicate that "...the definition of 'old-growth' as uncut timber...was unnecessarily restrictive and ignored observations that young redwood has many of the structural characteristics of old-growth forest." They also indicated that "...'young' (redwood stands) had many of the structural characteristics of old-growth and mature Douglas-fir forests" (Anderson et al. 1990:4), that "...owls having an array of habitat classes within their home ranges select for old-growth (and) use mature forest in relation to its availability..." (Anderson et al. 1990:9). If mature and old-growth forests are grouped, as is done in Section 2.4 (Anderson et al. 1990:11), the

Statistical Review of Anderson et al.

results concerning habitat selection would not have changed, and this conclusion could also have been less restrictive.

5. Given the preponderance of circumstantial evidence in the Habitat Relationships portion of Anderson et al. (1990:3-28), it is reasonable to conclude that "stands <80 years old seldom provide suitable habitat for northern spotted owls." However, the problem with this statement is that one is free to define suitable habitat (see comment XII, above).
6. I am not sure how one finds "...regions where suitable habitat comprises <20% suitable habitat." I can define suitable habitat as an area of certain size that is comprised of >20% of certain forest classes, but how can a whole be composed of <100% of itself? Therefore, the meaning of this conclusion appears to be nonsensical.
7. Conclusion marked "7" requires information about the forest management practices that are not addressed until a later portion in the report (Anderson et al. 1990:46-58). The information needed concerns whether stands >80 years old will still exist on timber production lands in the future. This conclusion would seem more appropriate in the section about "Management of Forest Lands in the Pacific Northwest" (Anderson et al. 1990:46-58).
8. The conclusion that "...stands managed using uneven-aged methods often continue to support owl populations or support them at earlier ages than if the stands had been clearcut" (Anderson et al. 1990:29) is supportable. However, the part of this statement concerning the age at which these stands might be able to support owl populations is speculative. A controlled experiment would be necessary to go beyond the speculative nature of those stands being able to "...support (owls) at earlier ages than if the stands had been clearcut."
9. Again, given that the definition of "protected habitat" means forest management through timber harvesting will not occur, then most of the protected habitat is within the boundaries of Wilderness Areas and National Parks. However, protected habitat is not explicitly and implicitly defined in Anderson et al. (1990), so this conclusion can have different interpretations as to its validity.
10. Anderson et al. (1990) gives little conclusive evidence (see comment VIII, above) that "...spotted owl habitat in protected areas is too fragmented, isolated, and poor in quality to support a viable population of northern spotted owls."
11. If the northern spotted owl is dependent on older forests (which is quite probable, but not shown as a cause-and-effect relationship), and if "...the likelihood that little suitable habitat will persist outside of preserved areas...", and if "...the probable inability of

Statistical Review of Anderson et al.

the protected land to support a viable population..." can be shown to be a correct assertion, and if it can be shown that spotted owl habitat is not available to support a population that is not in immediate danger of extinction, then it would be likely that the northern spotted owl will become endangered in the future without some mitigating management action taking place.

POPULATIONS

I. Problems associated with Population Status and Trend section.

In Section 3.11 (Anderson et al. 1990:30-31) concerning spotted owl population status and trend information, the authors correctly indicate that the uncorrected spotted owl "...counts are not a good indicator of true population size or population trend." Anderson et al. (1990:31) list 8 reasons why these counts have problems. These range from incomplete censusing of some habitats, including private lands, Wilderness Areas and National Parks, to accounting problems due to double counting.

Given these problems, however, they proceed to make comparisons of spotted owl habitats on different landownerships in Table 3.1 (Anderson et al. 1990:32) and by "reserved" habitats and "nonreserved" habitats in Table 3.2 (Anderson et al. 1990:33). They further indicate that these data "...coupled with (their) knowledge of the availability of suitable habitat, indicates that relatively few pairs will be found or supported on these lands..." (Anderson et al. 1990:31). This statement is based on circular reasoning that says low counts (that are incomplete and problematic) indicate few pairs will be found, and few pairs will produce low counts. Again, my previous comments (Habitat Loss and Habitat Relationships comments VIII, IX and XI, above) concerning problems of estimating suitable habitats and their ability to support spotted owls within Wilderness Area and National Parks still hold. Anderson et al. (1990) have not conducted the appropriate analyses to show that these lands will support only a few pairs of spotted owls.

Anderson et al. (1990:31) indicate that the total of about 2,000 pairs of owls "...should be viewed only as a minimum estimate of the true population size" due to the accounting problems. However, many of the accounting problems, such as double counting and the cumulative effect of recording the same owl over time, could as well indicate that the counts are an overestimation of the pairs of spotted owls.

I also take exception with the last sentence before the discussion of Section 3.1 (Anderson et al. 1990:31). Just because there is no reliable method for estimating the size of the spotted owl population at present, this should not preclude the search for such a method. Knowing the total population of spotted owls at a regular time interval would be extremely valuable in making decisions concerning spotted owl management. However, as Anderson et al. (1990:31) indicate, "...the total number of owls is not

Statistical Review of Anderson et al.

the only important indicator of its long-term survival", but if a reliable precise estimate of population size were developed, it would stop much of the debate about how many owls there are at present in the Pacific Northwest.

The non-colonial behavior of the spotted owl would indicate that "total population size is primarily a function of the total amount...of...habitat available to sustain successfully reproducing pairs of spotted owls through time" (Anderson et al. 1990:31). This statement is particularly true for species that are not colonial breeders. Therefore, pairs that are successful breeders are important to the survival of the population (Anderson et al. 1990:31) and should be of primary concern in management decisions.

II. Study areas used to estimate population parameters both contained timber harvesting activities.

Both the Willow Creek Study Area (WCSA) in California and the Roseburg Study Area (RSA) in Oregon contained areas that have been clear-cut. According to Anderson et al. (1990:34), the primary land use on the WCSA was logging, and the RSA has had substantial clear-cutting and the remaining habitat was highly fragmented. Mature and old-growth forest habitat types on the WCSA accounted for 35.6% of the study area, and during the period from 1985 to 1988 about 1,120 acres of these forest types were cut (Franklin et al. 1990:4). According to Anderson et al. (1990:34), about 39,168 acres of the RSA were cut during 1986-89. Therefore, if these figures are correct, it cannot be argued that the spotted owl populations on either study area are representative of owls living in "pure" old-growth stands that have not been managed for forest products. The population parameter estimates for these 2 study areas are only representative of these areas, and should not be construed to be representative of spotted owl populations throughout their range.

If the study areas had been chosen at random from a broad landscape of old-growth forests, then the population of inference could have been all old-growth forests. However, the study areas, WCSA and RSA, were selected with some unknown purpose and were quite disparate. Inferences drawn from analyses of data collected on the WCSA and the RSA should only be limited to their respective study area, and should not include all areas with clear-cut forests.

III. Methodologies used for analysis of age-specific annual survival rates are appropriate, but care needs to be taken concerning the definition of survival.

The survival analysis methods used by Anderson et al. (1990:78-79) are a culmination of a broad literature base addressing the analysis of capture-recapture/resighting information. Within Appendix C of Anderson et al. (1990:78-79), the state-of-the-art of survival analysis using the generalized Jolly-Seber approach (Burnham et al. 1987) has been further

Statistical Review of Anderson et al.

developed with the inclusion of Akaike's Information Criterion (Akaike 1973) used in model selection.

"Survival" when using this methodology has a broad meaning. The term not only includes those animals that have not died, but it also includes those animals that have not permanently emigrated from the population (Pollock et al. 1990:7). So, survival is the probability that the spotted owl will remain alive and in the population.

IV. Only banded birds were included in the survival analysis.

Anderson et al. (1990:78) indicate that they did not use spotted owls with radio transmitters in their analyses "because radio transmitters may affect survival. ." This was an appropriate action on the part of the authors. Survival estimates would have been biased (underestimated) if the radio had a negative effect on the probability of survival.

However, information from banded birds may have similar problems, and may not be representative of the unmarked population of spotted owls. If the process of capturing and recapturing spotted owls causes their survival rates to be different from the unmarked population, then the estimated survival rates from the banded birds is only representative of the population of spotted owls that have been banded. The differences in the survival of banded birds compared to unmarked birds is impossible to test with the information derived from the WESA and the NSA. Technically, the survival rates reported in the 1990 Status Review (Anderson et al. 1990:34) are only representative of the banded population of spotted owls on each of the respective study areas.

V. There are several concerns about the survival estimates and models selected.

The survival model that best fits the female spotted owl data from the WESA contains 2 separate survival rate parameters -- one for juvenile spotted owls and the other combines the subadults and adult age classes. The model also had 2 separate parameters for probabilities of recapture/resighting -- one for the juvenile owls and other for the subadults and adult age classes combined. This model was correctly chosen given the descriptive details in Appendix C of Anderson et al. (1990:79).

An examination of the parameter values for this model (Anderson et al. 1990:85) indicates that juvenile survival and probability of recapture/resighting on the WESA are both low when compared to the subadults-adult age class. The low survival rate may be an indication of a high rate of emigration of juveniles from the population. The low recapture/resighting probability for juveniles is also worrisome, given that members of the subadults-adult age class are 2.8 times more likely to be recaptured/resighted than juveniles. Juvenile behavior must be greatly different from adult, and this behavior may put them at greater risk.

Statistical Review of Anderson et al.

The model selected for use with the RSA data combines both sexes (Anderson et al. 1990:79). Therefore, the survival rates reported (Anderson et al. 1990:34) include data from females and males. The model selected for these data contains 3 separate survival rate parameters -- one for juvenile spotted owls, one for the subadults and the third for the adult age class. However, it only included 2 separate parameters for the probabilities of recapture/resighting -- one for the juvenile owls and the other the subadults-adult age class. Like the data for the WCSA, the juvenile segment of the population has low estimates of survival and recapture/resighting. These are probably due to behavioral differences and high rates of emigration and death.

Because the sexes were pooled, the survival probabilities reported for the RSA in the 1990 Status Review (Anderson et al. 1990:34) are not strictly correct. Anderson et al. (1990:34) indicates that "...the age-specific annual survival probabilities for females..." are reported, when, in fact, they report survival probabilities for the entire population, both male and female segments combined. If the female data were examined as a separate group for the RSA, then the same model as selected for the females on the WCSA would have been chosen (Anderson et al. 1990:82). The survival probabilities then would have been 0.177 (SE=0.053) for the juvenile spotted owls and 0.806 (SE=0.037) for the subadults-adult age class (Anderson et al. 1990:87). These data indicate a slightly lower, but not significantly different, juvenile survival rate than the estimates reported for the combined sexes model (Anderson et al. 1990:34).

Unfortunately, Anderson et al. (1990) did not report estimates of female survival probabilities by year, even though these models were more complex than required to model adequately survival and recapture/resighting information. It would have been interesting to examine the variation between annual survival estimates. This variation may have shown that survival is more variable from year to year than indicated by the rates reported (Anderson et al. 1990:34).

VI. Fecundity estimates have several problems.

The pooled fecundity (number of young fledged per pair) estimate of 0.1997 for the 2 subadult classes in the WCSA (Anderson et al. 1990:35) appears to be an underestimate. The rates reported for subadult 1 and subadult 2 were 0.147 (n=17) and 0.261 (n=23), respectively. Given the sample sizes, it would appear that a logical answer would have to be greater than 0.2 (specifically, 0.213 if a simple mean is used). However, if Anderson et al. (1990) weighted each subadult class by the proportion of females within these classes, then the estimate might be less than 0.2 and their answer may be correct. Anderson et al. (1990) did not report how their estimate was obtained.

Anderson et al. (1990:35) pooled the data for determining fecundity across years. Therefore, their reported estimates do not show the annual variation in fecundity. Franklin et al. (1990:5) indicate that on the

Statistical Review of Anderson et al.

WCSA the total number of spotted owls fledged each year from 1985 through 1987 was nearly consistent (range: 17-18). However, Foreman et al. (1984:34) show that the mean number of young fledged per successful nest in Oregon ranged from 1.46 to 2.14 (mean=1.79, SE=0.135) during the period 1972-1976. This broad range may indicate that fecundity is variable from year to year.

VII. Mean life span for females on RSA has problems.

Mean life span as used by Anderson et al. (1990:35) indicates the number of years after a spotted owl reaches adulthood (third year of life) that the spotted owl could be expected to live. Anderson et al. (1990:86) correctly indicate that this estimate is based on the assumption that the annual survival probability is constant for each year after the spotted owl reaches adulthood.

The mean life span reported for adult spotted owls in the RSA (4.79) is for the both sexes and not only females as indicated by Anderson et al. (1990:35). The mean life span for adult females only would be 4.63401 years after reaching adulthood given the survival estimate of 0.8059 for adult females in the RSA (Anderson et al. 1990:87; see comment V, above).

In my opinion, mean life span estimate, as used by Anderson et al. (1990:86), has little meaning. Because survival probabilities do change with age (i.e. - senescence), the mean life span estimate also changes, usually decreases with age. Therefore, the estimated mean life span reported in the 1990 Status Report (Anderson et al. 1990:35) does not mean that spotted owls should be expected to live until they are nearly 13 years old in the WCSA and nearly 8 in the RSA.

VIII. Questions concerning the number of adult female immigrants.

Anderson et al. (1990:35-36) used the fecundity and survival information in combination with Jolly-Seber estimation (Pollock et al. 1990:38-40) of "births" and population size to estimate the number of immigrants into the 2 spotted owl populations in the WCSA and the RSA. Using this approach, Anderson et al. (1990:36) could only produce point estimates of immigration for the 2 study areas. However, when "new" individual information reported for the WCSA by Anderson et al. (1990:35) is compared with the results of population analyses performed by Franklin et al. (1990:5), a discrepancy is noted. Both Franklin et al. (1990:5) and Anderson et al. (1990:86) used Model D (Pollock et al. 1990:38) to estimate the number of "new" individuals. Franklin et al. (1990:5) reported the following table for "births" (B):

Year	B	se(B)
1985	9.4	2.5
1986	16.5	1.7
1987	9.6	1.6

Statistical Review of Anderson et al.

For the same years, Anderson et al. (1990:35) reported:

Year	λ	$ss(\lambda)$
1985	0	1.87
1986	19	2.06
1987	5	2.09

In comparing these data they appear to be too close. When comparing the 2 sets of data on a yearly basis, the data for 1985 are significantly different ($P < 0.05$), but the other 2 years (1986 and 1987) are not significant different ($P > 0.05$). This seems strange given that the Franklin et al. (1990:5) information represents subadult and adult spotted owls of both sexes, and the Anderson et al. (1990:35) information is supposedly for adult females. The adult female population size reported by Anderson et al. (1990:86) for the WCSA was about 50% of the mean population size reported by Franklin et al. (1990:5). Given these differences in the data, I would have expected the birth information from Anderson et al. (1990:35) to be about one-half the estimates reported by Franklin et al. (1990:5).

IX. Assumptions concerning the finite rate of population change need to be stated in the 1990 Status Review.

Anderson et al. (1990:36-39) reported finite rates of population change for the WCSA and RSA. They indicate that "these estimates of (finite rate of population change) represented a 4 or 5 year 'snapshot' of the average annual change in the female component of these populations" (Anderson et al. 1990:37). (The only problem with this statement is that for the RSA the survival information used is representative of the male as well as the female component.) This "snapshot" of the finite rates of population change assumes that:

- (1) The population has a stable age distribution (Poole 1974:37-39; Pielou 1977:45-52; Noon and Biles 1990:20).
- (2) The population parameters are constant within the time period of interest (Pielou 1977:41-45). In this case, parameters need to be constant over the 4-year period of interest.
- (3) The population parameters truly represent their meaning. For example, "mortality" does not include deaths and emigration, but only deaths. Anderson et al. (1990:89-90) address the concern of emigration as a potential bias of the finite rate of population change.
- (4) In the case of the Leslie approach, the population should be in an environment of unlimited resources for the finite rate of population change to have any meaning outside the period (Poole 1974) which the population parameters represent.

Statistical Review of Anderson et al.

Poole (1974:40-41) shows the consequences of an unstable age distribution. The population may fluctuate greatly and never stabilize. Also, if parameters are being estimated during a period of population fluctuation when the age distribution is unstable, the finite rate of population change may be biased.

Given that the spotted owl populations on the 2 study areas were in a state of flux, the Franklin approach (Anderson et al. 1990:88-89) of estimating the finite rate of population change on a year-to-year basis is probably the better method. However, these year-to-year estimates should not be used beyond the period for which they were derived.

In this regard, Anderson et al. (1990:38) correctly indicate that in the case of finite rates of population change less than 1 "...the population will continue to decrease...until a new equilibrium is reached." At the point that the new equilibrium is reached, the finite rate of population change will be equal to 1. However, it is assumed that the habitat supporting the population is maintained at a constant level in order that the population has time to reach equilibrium.

In my opinion, the estimate of the finite rate of population change has little use until the population has been studied over a long period of time to determine the overall direction of the population change. In species that are cyclic, the finite rate of population change can be greater than 1 if parameters are estimated when the population is on the increasing side of the cycle. However, the finite rate would be less than 1 if the population was studied on the down side of the cycle. If spotted owl populations are naturally cyclic, and if habitat destruction is a contributing factor to a lower equilibrium (mean population size over a complete cycle), then the finite rates of population change reported by Anderson et al. (1990:37-38) could be very alarming if the populations are on the up-side of a cycle. Conversely, it would not be as alarming if the owls are on the down-side of a cycle. With cyclic populations, the problem is setting the equilibrium at a point where there is little likelihood that the population will reach a trough in a cycle that is at or below a level that will not allow the population to recover.

K. Concerns about population viability models.

Population models can be useful in developing and understanding about how a population might react under certain conditions. However, models are developed from the simplification of complex processes acting upon a population, but the models are not true representations of the biological processes that controls the population. Also, all estimates that are used as inputs or parameters in the models are normally measured with error. This sampling error can cause a model that is structurally sound and representative of the biological process to give false readings about the fate of the population.

Statistical Review of Anderson et al.

As for the population viability models discussed in Anderson et al. (1990:39-42), I would place little reliance on these models. I am in agreement with Anderson et al. (1990:42) when they said, "we can place no reliance on conclusions reached from the population viability models currently available."

- XI. No quantitative evidence is presented concerning predation and competition of other owl species on spotted owls.

Anderson et al. (1990:42) properly cite evidence that spotted owls are taken by other avian predators. They also avoid any implication that this predation is causing a decline in the spotted owl population. However, they do cite several studies concerning possible competition between spotted owls, great horned owls (*Bubo virginianus*), and barred owls (*Strix varia*). Great horned owls and spotted owls are evidently sympatric in the Pacific Northwest. Barred owls on the other hand are apparently a recent invader of the spotted owl range. Because of the lack of quantitative information, little about these relationships can be explained except from a speculative view using biological information. (If further interpretation of the interspecific competition of these owls is desired, then I suggest that a biologist familiar with these species be consulted.)

- XII. Problems with the conclusions of the Populations portion of Anderson et al. (1990:30-45).

Each of the 12 conclusions for the Population portion as described in Section 3.6 (Anderson et al. 1990:44-45) is critiqued for supportability. I also have several comments concerning the introductory paragraph to this section (Anderson et al. 1990:44).

Undoubtedly, "complex population changes (have) taken place in response to dramatic changes in the forest environment...over the past 40 years" (Anderson et al. 1990:44), however, evidence of these population changes have not been documented in the 1990 Status Review. Anderson et al. (1990:30) readily admit that "there are no estimates of the historic population size of the northern spotted owl...", and population information that is given only covers the period from 1985 through 1989 (Anderson et al. 1990:32-36). Therefore, this statement is not supportable by direct evidence in the 1990 Status Review, but all populations, including humans, undergo changes during a 40-year period.

The following comments relate directly to the 12 conclusions as enumerated in section 3.6 (Anderson et al. 1990:44-45).

1. It is a fact that the AOU has retained the northern spotted owl as a distinct subspecies.
2. Anderson et al. (1990) did use the state-of-the-art techniques to analyze the banding information to estimate age- and sex-specific survival probabilities. However, the methodologies for collecting

Statistical Review of Anderson et al.

the age-specific fecundity rate and the techniques for analyzing these data were not presented. Therefore, judgement concerning the appropriateness of these analytical procedures is reserved.

3. Annual rates of decline for the WCSA and the RSA during 1985-1989 were estimated at about 5% and 14%, respectively, using methods that require assumptions that might not be valid for these populations. Also, these estimates of decline exhibit annual variation (Anderson et al. 1990:89), and may become more or less severe over time. More years of data with absolute counts of spotted owls would be important to substantiate the long-term rate of population change for these study areas.
4. The rates of decline, 21.6% for the WCSA and 20.8% for the RSA, are merely an expansion of the 2 rates reported in conclusion "3" (see above). The long-term rate of population change would be more important than this "...snapshot' of the average annual change..." (Anderson et al. 1990:37).
5. Results of any objective survey of biologists are not reported in the 1990 Status Review (Anderson et al. 1990). Therefore, the statement that "...essentially all biologists believe that the number of owls are decreasing substantially because of the loss of suitable habitat due to timber harvest" cannot be objectively made or reviewed. This is a subjective judgement that may be true, but it is not objectively documented in the 1990 Status Review.
6. The populations on the WCSA and RSA are being augmented each year by immigrants. However, all populations have not been studied to prove that this is occurring range wide. Juvenile birds may indeed have a low probability of staying within their natal area for their entire life (reflected in low survival of juveniles and high immigration) resulting in a high floater population. Undoubtedly, there also are emigrants from areas where timber harvesting is occurring (Anderson et al. 1990:36).
7. Given that spotted owls would move into other areas after timber harvesting had occurred in their home area, a "packing" or crowding would occur, and ecological density would be increased.
8. The consequence of this "packing" would create a scenario that would require the owl population to find a new equilibrium. The mechanism for establishing this new equilibrium would be either through changes in the population parameters of births (reproduction and immigration) and/or deaths (mortality and emigration) or through the establishment of a higher density.
9. Given data from the WCSA and the RSA, it would appear that the new equilibrium will be obtained by adjustment of survival and fecundity for these spotted owl populations. The carrying capacity of a unit

Statistical Review of Anderson et al.

of land that remains intact, in terms of habitat, should not change unless there are changes in other important components within the land unit. The reason that these populations were above carrying capacity may be due to components other than habitat (such as prey base) that have changed and become limiting (Gutiérrez 1985a).

10. It might require a few years for spotted owl populations to stabilize after the components that are limiting spotted owls have been stabilized. The length of time is unknown.
11. Single pairs of owls in isolated areas would certainly become extinct if there were no other owls that could replace them. Anderson et al. (1990:44) may be assuming that if the probability of replacement is low, then owls may become extinct from small areas that are long distances from other areas with owls. This is basic island biogeography.
12. The question of how much barred and great horned owls are a threat to spotted owls is debatable. They might be a potential threat, but there does not appear to be data to determine the degree.

Species that are adapted to newly created habitats usually favor these habitats. These species often demonstrate a rapid population increase then stabilize at either a high density or decrease to some lower level. For example, barred owls seem to like wooded habitats with a mixture of conifers and hardwoods (Karalus and Eckert 1974). They also roost in isolated trees. They could be invading the spotted owl range of the Pacific Northwest to fill niches that were created by environmental changes (e.g. - timber harvesting activities or successional changes due to other human activities, such as fire suppression). As an invader into habitat that suits their needs, barred owl populations would be expected to increase and either stabilize at a high density or possibly fluctuate until stabilizing at some density that would be equal to the long-term "carrying capacity" of this newly created habitat.

VIEWS AND RECOMMENDATIONS

- I. A review of the FS spotted owl monitoring survey should be made.

The FS monitoring survey (USDA 1989 as cited by Anderson et al. 1990:15) should be reviewed to determine if methodology used in data collection is appropriate for comparing "protected" and "unprotected" habitats (Anderson et al. 1990:23-28). Such a review would require documentation of survey procedures and field data in order to determine if the survey is properly designed (in terms of statistical methodology). If the survey is not designed so that data are comparable, then I would recommend that a standardized survey be designed to monitor spotted owls in such a manner

Statistical Review of Anderson et al.

that population trend information would be comparable between differing habitat strata.

If the FS monitoring survey is found to be sound in terms of methodology, then I would recommend that it be implemented range wide. The need for an objective, precise population monitoring program that encompasses the entire range is obvious given the data presented in the 1990 Status Review (Anderson et al. 1990). Anderson et al. (1990) had to use data from many different sources to determine population trends and estimate population size. For a species that has been recently listed as threatened, a method for objectively tracking population trend would seem to be of the highest priority.

- II. Spotted owl studies should be conducted in areas where selective timber harvesting (uneven-aged management) is occurring.

Anderson et al. (1990:19-22) reviewed the information available concerning spotted owls in areas that timber had been harvested using selective (uneven-aged) management. The data were sparse and inconclusive, and the use of selective management apparently is not widespread throughout the Pacific Northwest. However, the limited information apparently excited Anderson et al. (1990:21-22) enough that their tone in the report was quite positive concerning selective management. Their excitement was very encouraging to me, too.

I would recommend that surveys of spotted owls be implemented to determine population status (e.g. - density and trends) on forests that are managed using selective harvest. These data will be correlational (White and Garrott 1990:15), but the information would be helpful in determining if selective harvest is a viable management tool for spotted owls.

After the areas that are selectively harvested have been surveyed and results indicate that it is a possible management tool, then I would recommend that an experiment be designed (about 10-15 years in length) to determine the short-term impacts of selective harvesting on spotted owls. This experiment would require replication of randomly assigned treatments (selectively harvested forests) and controls (unharvested forests). The study would require pre- and post-treatment information concerning spotted owl populations on each experimental unit. Appropriate population information would consist of population size, survival, reproduction and movement data collected over time.

- III. General research of the impact of timber harvesting on spotted owl populations should also be conducted.

Anderson et al. (1990:40) indicated that "...opportunity exists to coordinate timber harvest activities with a well-designed research program..." I would echo this recommendation, however, with the following 4 restrictions on the meaning of "well-designed research."

Statistical Review of Anderson et al.

- (1) The research studies would be controlled experiments with both treatments and controls. This would allow for the determination of the impacts of the treatments, in terms of cause-and-effect.
- (2) These experiments would have to be replicated in time and throughout the range of the spotted owl. The interpretation of the experimental results would then be appropriate for all areas within the range of the northern spotted owl.
- (3) The experiments would need to be designed with sufficient power so that treatment effects can be found that are biologically meaningful (Peterman 1990). An experiment with not enough power may produce results that are more detrimental than an experiment with too much power. A too powerful experiment would be a waste of resources (financial and land-based), and may also indicate that any treatment has an effect even though the effect would not be damaging to the population.
- (4) The final restriction is that the experiments be conducted long enough to determine the long-term impacts of forest management as well. An experiment that is too short may show no treatment effect when there is a long-term impact, and the study may show a short-term impact when there is no long-term impact.

These restrictions would require a long-term commitment from all parties concerned with spotted owls and forest management in the Pacific Northwest. Even though the experiments may have to be conducted through 2 rotations of forest management (200-400 years), results from these studies, as they would come available, could be used to aid in forest management decisions for the areas not committed to the studies. Under the experimental approach cause-and-effect could be determined.

IV. The following are my views concerning the spotted owl issue.

Let me first preface my comments by saying that I am not a spotted owl biologist nor do I know a great deal about forest management in the Pacific Northwest. I have travelled through the region designated as spotted owl range (Anderson et al. 1990:16), and I have read some of the recent scientific literature (e.g. - Forsman et al. 1982; Forsman et al. 1984; Gutierrez and Carey 1985; Marcot and Holthausen 1987; Nyberg et al. 1987; Franklin et al. 1990; Carey et al. 1990; and Noon and Bilas 1990) as well as popular literature, such as articles that have appeared in popular publications like *National Audubon Magazine*. Therefore, as indicated earlier this review is based upon this limited information about spotted owl biology and heavily upon statistical interpretation of the information reported in the 1990 Status Review (Anderson et al. 1990). However, this review effort has helped me to formulate some opinions specific to the

Statistical Review of Anderson et al.

spotted owl issues in the Pacific Northwest. I hasten to add that these opinion are in a continual evolutionary state as I learn more about spotted owls.

My first opinion about the spotted owl issue concerns the knowledge base that we have about the owl's biology, habitat requirements, and population dynamics. This scientific knowledge base for spotted owls is weak when compared to what we know about other wildlife species, in particular game species like deer and waterfowl. The knowledge base is still weak for owls when even compared to what we know about other endangered species, such as timber wolves in Minnesota, bald eagles, whooping cranes, and peregrine falcons. However, even given the vast scientific knowledge that we have about waterfowl, the community of waterfowl biologists and managers is still in need of more information and knowledge in making sound decisions. As for the spotted owls, wildlife biologists and forest ecologists that are faced with the spotted owl issues and decision-making process have only a small information base to corroborate their decisions (Carey 1985; Gutierrez 1985b). Therefore, it is my belief that the scientific data base concerning spotted owls should be expanded as rapidly as possible with as few impacts on spotted owls as feasible. In other words, the research should not impact spotted owl populations by studying them to "death".

Due to the lack of knowledge that we have concerning the spotted owls, decisions concerning spotted owl management should take the conservative approach until data with sufficient biological meaning become available that would indicate a more liberal approach. The conservative approach for managing wildlife species has 2 advantages based on my experience. First, it allows time to assess the status of the problem and gather information that can be used to make better decisions. And, secondly, it also saves habitat that can be used in the experimental process of gathering the needed information. It has been my experience in forest and wildlife management that about the time that some forest-wildlife management issue comes to light very little forest cover is available for conducting replicated experiments with sufficient power to determine cause-and-effect implications. However, this is not to say that all forest management, timber harvest, should be stopped.

I believe that spotted owls in the Pacific Northwest are on a population decline and the cause is human impact on the forest habitats in which the owl lives. However, I also believe that both forest management (i.e. - timber production) and spotted owls can co-exist. The timber production most likely cannot be a 60 to 80 year rotation for even-aged management (Anderson et al. 1990:49) with large (>40 acres) clear-cuts. Proper management for spotted owls may also require that timber harvest be slowed drastically until forests have an opportunity to recover (Photo in Forman et al. 1984:10). A longer rotation (150-200 years with some areas as long as 350 years) would benefit spotted owls. There also should be benefits for the timber industry, such as a sustainable harvest of the greater valued high-grade timber by using this longer rotation scheme. Also,

Statistical Review of Anderson et al.

smaller (<40 acres) clear-cuts could be of benefit to spotted owls by having a diversity of forest age classes within a relatively small area.

LITERATURE CITED

- Akaike, H. 1973. Information theory and an extension of the maximum likelihood principle. Pages 267-281 in B. N. Petran and F. Csaki, eds. International symposium on information theory. Second ed. Akademiai Kiado, Budapest, Hungary. (As cited by Anderson et al. 1990:63)
- Anderson, D. R., J. Bart, T. C. Edwards, Jr., C. B. Kepler, and E. C. Meslow. 1990. 1990 status review: northern spotted owl (*Strix occidentalis caurina*). U.S. Fish Wildl. Serv., Dep. Inter. 95p.
- Bart, J., and E. D. Forsman. 1990. Surveys of northern spotted owls on public lands. Unpublished report, Ohio Coop. Fish Wildl. Res. Unit, Ohio State Univ., Columbus, Ohio. (As cited by Anderson et al. 1990:63)
- Boulanger, J. G., and G. C. White. 1990. A comparison of home-range estimators using monte carlo simulation. J. Wildl. Manage. 54:31-315.
- Burnham, K. P., D. R. Anderson, G. C. White, C. Brownie, and K. H. Pollock. 1987. Design and analysis methods for fish survival experiments based on release-recapture. Am. Fish. Soc. Monogr. 5. 437pp.
- Eurt, W. H. 1943. Territoriality and home range concepts as applied to mammals. J. Mammal. 24:346-352. (As cited by White and Garrott 1990:181)
- Carey, A. B. 1985. The scientific basis for spotted owl management. Pages 100-114 in R. J. Gutierrez and A. B. Carey, eds. Ecology and management of the spotted owl in the Pacific Northwest. U.S. For. Serv. Gen. Tech. Re. PNW-185.
- Carey, A. B., J. A. Reid, and S. P. Horton. 1990. Spotted owl home range and habitat use in southern Oregon coast ranges. J. Wildl. Manage. 54:11-17.
- Forbes, L. S. 1990. A note on statistical power. Auk 107:438-439.
- Forsman, E. D., K. M. Horn, and W. A. Neitro. 1982. Spotted owl research and management in the Pacific Northwest. Trans. North Am. Wildl. Nat. Resour. Conf. 47:323-331.
- Forsman, E. D., E. C. Meslow, and H. M. Wight. 1984. Distribution and biology of the spotted owl in Oregon. Wildl. Monogr. 87:1-64.
- Franklin, A. B., J. P. Ward, R. J. Gutierrez, and G. I. Gould, Jr. 1990. Density of northern spotted owls in northwest California. J. Wildl. Manage. 54:1-19.

Statistical Review of Anderson et al.

- Fuller, M. R. 1987. Applications and considerations for wildlife telemetry. *J. Raptor Res.* 21:126-128.
- Gutierrez, R. J. 1985a. An overview of recent research on the spotted owl. Pages 39-49 in R. J. Gutierrez and A. B. Carey, eds. Ecology and management of the spotted owl in the Pacific Northwest. U.S. For. Serv. Gen. Tech. Re. PNW-185.
- Gutierrez, R. J. 1985b. Information and research needs for spotted owl management. Page 115-118 in R. J. Gutierrez and A. B. Carey, eds. Ecology and management of the spotted owl in the Pacific Northwest. U.S. For. Serv. Gen. Tech. Re. PNW-185.
- Gutierrez, R. J., and A. B. Carey, eds. 1985. Ecology and management of the spotted owl in the Pacific Northwest. U.S. For. Serv. Gen. Tech. Rep. PNW-185. 119pp.
- Gutierrez, R. J., A. B. Franklin, W. Lahaye, V. J. Meretsky, and J. P. Ward. 1985. Juvenile spotted owl dispersal in northwestern California: preliminary results. Pages 60-65 in R. J. Gutierrez and A. B. Carey, eds. Ecology and management of the spotted owl in the Pacific Northwest. U.S. For. Serv. Gen. Tech. Re. PNW-185.
- Karaluz, K. E., and A. W. Eckert. 1974. *The owls of North America*. Doubleday, Garden City, N.Y. 278pp.
- Koepl, J. W., N. A. Slade, and R. S. Hoffmann. 1975. A bivariate home range model with possible application to ethological data analysis. *J. Mammal.* 56:81-90.
- Marcot, B. G., and R. Holthausen. 1987. Analyzing population viability of the spotted owl in the Pacific Northwest. *Trans. North Am. Wildl. Nat. Resour. Conf.* 52:333-347.
- Noon, B. R., and C. M. Biles. 1990. Mathematical demography of spotted owls in the Pacific Northwest. *J. Wildl. Manage.* 54:18-25.
- Nyberg, J. B., A. S. Harestad, F. L. Bunnell. 1987. "Old growth" by design: managing young forests for old-growth wildlife. *Trans. North Am. Wildl. Nat. Resour. Conf.* 52:70-81.
- Peterman, R. M. 1990. The importance of reporting statistical power: the forest decline and acidic deposition example. *Ecology* 71:2024-2027.
- Pielou, E. C. 1977. *Mathematical ecology*. John Wiley and Sons, New York, N.Y. 385pp.
- Pollock, K. H., J. D. Nichols, C. Brownie, and J. E. Hines. 1990. Statistical inference for capture-recapture experiments. *Wildl. Monogr.* 107:1-97.

Statistical Review of Anderson et al.

Poole, R. W. 1974. An introduction to quantitative ecology. McGraw-Hill Book Co., New York, N.Y. 532pp.

Steel, R. G. D., and J. H. Torrie. 1980. Principles and procedures of statistics: a biometrical approach. McGraw-Hill Book Co., N.Y. 633pp.

Thomas, D. L., and E. J. Taylor. 1990. Study designs and tests for comparing resource use and availability. J. Wildl. Manage. 54:322-330.

White, G. C., and R. A. Garrott. 1990. Analysis of wildlife radio-tracking data. Academic Press, San Diego, Calif. 383pp.

THE TECHNICAL BULLETIN SERIES

- TB90-01 Daniel E. Chappelle; Michigan State University;
"Review of the RPA Valuation Guidelines"
- TB90-02 John H. Beuter; Mason, Bruce & Girard, Inc.
"An Overview of Below-Cost Timber Sale Issue"
- TB90-03 John H. Beuter; Mason, Bruce & Girard, Inc.
"The Social and Economic Impacts of the Northern Spotted Owl
Conservation Strategy"
- TB90-04 Dr. Paul E. Polzin; University of Montana
"The Spatial Distribution of Wood Products Industries"
- TB91-05 Dr. Con Schallau; American Forest Resource Alliance
"State of Timber Supply - Is The Nation Appropriately Positioned
For The 21st Century"
- TB91-06 Steven Quarles, John Macleod, Thomas Lundquist; Crowell & Moring
"The Endangered Species Act & Its Application to Private Lands"
- TB91-07 Wilbur Maki and Douglas Olson; University of Minnesota
"Economic and Social Impacts of Preserving Ancient Forests in the
Pacific Northwest"
- TB91-08 Steven L. Sheriff; Wildlife Biostatistician Consultant
"Statistical Review of 1990 Status Review, Northern
Spotted Owl"
- TB91-09 Edwin J. Green; Rutgers University
"Statistical Critique of 1990 Status Review, Northern
Spotted Owl"

* For more information on the Technical Bulletin Series or for a copy of the papers, please contact Carrie Jelsma at the American Forest Resource Alliance at 202/463-2792; 1250 Connecticut Avenue, NW Suite 200, Washington, DC 20036.



Y 4.AG 8/1:102-33

C.1

Ancient Forest Protect

Stanford University Libraries



3 6105 045 084 048

4

DEPOSIT
NOV 21 1991
SHIPPED



